

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) No. 09-CR-5022-RED
)
ROBERT JOOS,)
)
) January 11, 2010
 Defendant.) Springfield, Missouri

CRIMINAL JURY TRIAL
BEFORE THE HONORABLE RICHARD E. DORR
UNITED STATES DISTRICT JUDGE

VOLUME 1

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I N D E X

Page No.

JANUARY 11, 2010 - DAY 1 - VOLUME 1

RECORD	6
INSTRUCTION NOS. 1-7 READ	30
OPENING STATEMENTS BY MR. KELLEHER	30

GOVERNMENT'S EVIDENCE

WITNESSES:

TRISTAN MORELAND	
Direct Examination by Mr. Kelleher . . .	36
Cross-Examination by Mr. Johnson . . .	54
Redirect Examination by Mr. Kelleher . . .	63
Recross-Examination by Mr. Johnson . . .	69
JAMES PATTERSON	
Direct Examination by Mr. Kelleher . . .	72
Cross-Examination by Mr. Johnson . . .	93
Redirect Examination by Mr. Kelleher . . .	98
Recross-Examination by Mr. Johnson . . .	103
Ctd. Redirect Examination by Mr. Kelleher	105
Ctd. Recross-Examination by Mr. Johnson .	107
DAVID WHITTAKER	
Direct Examination by Mr. Kelleher . . .	108
Cross-Examination by Mr. Johnson . . .	113
Redirect Examination by Mr. Kelleher . . .	116
FRED BRADFORD	
Direct Examination by Mr. Kelleher . . .	116
Cross-Examination by Mr. Johnson . . .	118
ANTHONY PUPURA	
Direct Examination by Mr. Kelleher . . .	119
DAN FRIDLEY	
Direct Examination by Mr. Kelleher . . .	123
Cross-Examination by Mr. Johnson . . .	126
Redirect Examination by Mr. Kelleher . . .	127

INDEX (Continued)

Page No.

LONNIE NANCE

Direct Examination by Mr. Kelleher . . 127

JANUARY 12, 2010 - DAY 2 - VOLUME 2

WITNESSES:

DONALD HAMPTON

Direct Examination by Mr. Kelleher . . 135

Cross-Examination by Mr. Johnson . . 140

NANCY MANIRE

Direct Examination by Mr. Kelleher . . 140

Cross-Examination by Mr. Johnson . . 144

Redirect Examination by Mr. Kelleher . . 146

GOVERNMENT RESTS 147

DEFENSE MOTION 147

DEFENDANT'S EVIDENCE

WITNESSES:

ROBERT JOOS

Direct Examination by Mr. Johnson . . 152

Cross-Examination by Mr. Kelleher . . 198

DEFENSE RESTS 214

DEFENSE MOTION 217

INSTRUCTION RECORD 220

INSTRUCTION NOS. 8-18 READ 231

CLOSING ARGUMENT BY MR. KELLEHER 233

CLOSING ARGUMENT BY MR. JOHNSON 241

CLOSING ARGUMENT BY MR. KELLEHER 245

RECORD 251

VERDICTS 254

INSTRUCTION NO. 19 READ 256

INDEX (Continued)	Page No.
DEFENSE MOTION	258
FORFEITURE VERDICT	259
REPORTER'S CERTIFICATE	264

* * * * *

INDEX OF EXHIBITS

GOVERNMENT'S EXHIBIT		OFFERED	ADMITTED
No. 1-30	Firearms/Ammunition/Explosive	83	84
No. 31	Bag with Documents	85	85
No. 32	DOC Documents	84	84
No. 33	Documents/CR294-494FX	90	90
No. 34	Documents/04MC-CR01375	91	91
No. 35	DOC Documents	91	91
No. 36	Fingerprint card	129	129
No. 37	Photograph	41	41
No. 38	Photograph	48	49
No. 40	Photograph	86	86
No. 41	Photograph	87	87
No. 42	Photograph	87	87
No. 43	Photograph	88	88
No. 44	Photograph	88	88
No. 45	Photograph	88	88
No. 46	Photograph	89	89
No. 47	Photograph	89	89
No. 48	Photograph	109	109

INDEX OF EXHIBITS (Continued)

No. 49	Photograph	110	110
No. 50	Photograph	111	111
No. 51	Photograph	113	113
No. 52	Cart/19,000 rounds of ammunition	84	84
No. 53	Robert Joos letter	213	214

DEFENDANT'S EXHIBIT:

No. 1	Motion	147	--
No. 2	Resume	167	--
No. 3	Letter	(voir dire)	
No. 4	Yearbook	157	157
No. 5	Motion	217	217

* * * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
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USA v. ROBERT JOOS
CASE NO. 09-CR-05022-RED
CRIMINAL JURY TRIAL
JANUARY 11, 2010
* * * * *

THE COURT: All right. Now, I wanted to have this conference here before we start the trial. Mr. Joos --

THE DEFENDANT: Yes, sir.

THE COURT: -- I wanted to deal with -- you filed some things and I know you know that you had Judge Smith for awhile. Judge Smith is in Kansas City with a different trial. He indicated this case was ready for trial and it got transferred to me to try the case, that's why I'm here today on this.

Now, I've seen what you've filed. I know you've had several things that you filed and I want to cover some of that. One thing, you've talked about your prior convictions, and if I can tell from some of those requests, you want to, I guess, review the -- whether or not those are proper convictions. Can you tell me just what it is that --

THE DEFENDANT: Yes, sir. At the time I was arrested, I was preparing to file in federal court for judicial review of those two state convictions because I believe they are false convictions and I can prove it, both -- in the record the evidence itself shows they're false in fact

1 and then in law they're also false convictions because I had
2 rights violated. Speedy trial was one of them, the right to
3 present evidence and witnesses in my defense was another. I
4 can prove in both cases the cops committed perjury from the
5 evidence that's actually available in the record.

6 THE COURT: Did you appeal those cases in state
7 court?

8 THE DEFENDANT: They were appealed and I lost my
9 appeals in both cases in the state court and I -- I think it
10 was like six months maybe before I was arrested that I had
11 exhausted my state appeals. I had gone all the way through
12 the state appeal system. Now, I won the one case, which was a
13 felony resisting arrest. Southern District Court of Appeals
14 said there was no evidence on which to convict me on that
15 case, which was in conjunction with a driving without license
16 case. Well, that right there is enough to show the jury's
17 prejudice against me. That was one of the issues. I wasn't
18 allowed proper voir dire to insure that people were --

19 THE COURT: Let me just explain this to you. This
20 case today charges you with being a felon in possession of
21 firearms and I believe explosive and that's basically the
22 issues here. Now, the government is going to have to provide
23 proof to me of those convictions. In terms of reviewing those
24 convictions, that's not something -- the detailed reviewing of
25 it that's going to be before this Court. I understand you may

1 like for it to be, but that's not part of the charge here, if
2 they can show there's a conviction, a record of a conviction
3 in state court. Now, I'm not saying there aren't other
4 avenues and maybe even through federal court to approach that,
5 but this is not the one. Do you understand what I'm saying?

6 THE DEFENDANT: Yes, sir, but I understand that if I
7 prove they're false -- in fact, I was even told by my attorney
8 if I could hire an outside attorney to file the case in
9 federal court and prove they're false convictions, this case
10 goes away. That's my contention, they're false convictions,
11 not convictions. It's, in fact, a crime that was committed
12 against me just like a false arrest is a crime --

13 THE COURT: I don't know about what you might do in
14 a separate action, but what I have to deal with is what's
15 before the Court, what's been assigned to me to try today and
16 there would also be an appeal from here. If you're convicted
17 today, you have the right to appeal in federal court to deal
18 with that as well. Do you understand that?

19 THE DEFENDANT: Yes, sir, but I thought I also had
20 the right to judicial review when there's a fact issue being
21 contested.

22 THE COURT: You will have me here to make decisions
23 on matters that are properly before the Court with the issues
24 before the Court. But in terms of us in this court reviewing
25 behind the convictions -- I don't know what the government is

1 going to present to prove it, but if they have convictions and
2 records of convictions that have been final in state court,
3 that may very well be enough as far as this proceeding is
4 concerned. I just want you to know that.

5 THE DEFENDANT: Yes, sir. Well, I tried to get them
6 reviewed by the grand jury but I wasn't allowed to speak to
7 the grand jury, which I believe is a violation of my
8 constitutional right to face my accusers.

9 THE COURT: Those constitutional issues may very
10 well be raised in a different action, but they all can't be
11 reviewed here today and I -- you may have thought they could,
12 and if you did, I'm sure you're disappointed in that, but I'm
13 just telling you, we have procedural rules and what's before
14 this Court is just the trial on your felon in possession.

15 THE DEFENDANT: Yes, sir. I'd just like to inform
16 the Court that my understanding is that my rights are secured
17 by the Constitution and that's what I'm proceeding on. I just
18 wanted the Court to know that.

19 THE COURT: That's okay. But I want you to also
20 understand, I may make some rulings contrary to what you think
21 they should be and you will have the right to appeal to the
22 Eighth Circuit Court of Appeals and present those things. If
23 I'm wrong, then -- and you're right, then you'll get the
24 relief you ask for. But I have to make decisions today on
25 that and apply law and consider issues and that's the way

1 we'll go through as far as this trial goes. But I know you
2 understand -- because you seem to have some knowledge of it --
3 that any decision I make that isn't appropriate, if it turns
4 out that way, you'll have relief from the Court of Appeals.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, another thing that I noticed
7 indicated you -- I'm trying to understand. Did I understand
8 that you indicated you want a different attorney, is that what
9 you're --

10 THE DEFENDANT: Yes, sir. Before we get into my
11 motion, I just need a few questions answered so I can make an
12 informed decision as to what I really need to do today. Are
13 we on the record?

14 THE COURT: Yes, sir.

15 THE DEFENDANT: Okay. Just a few questions. If I
16 proceed on my own, in other words, remove the attorney,
17 proceed -- represent myself, now, that would -- of course, I'd
18 have to have an extension of time to prepare because I'm in no
19 way prepared for this today. Would I be allowed to subpoena
20 witnesses for my defenses, especially character witnesses?

21 THE COURT: Two things here. I'm not going to
22 continue the case at this point because this is the third time
23 that it's come up for a continuance and -- yes, you've had two
24 continuances before. One, you got a different attorney, next
25 one with Mr. Johnson you got a continuance. Those were

1 October 15th of '09 and November 16th of '09. So we're not
2 going to continue again. And I can tell you for sure that
3 would be a mistake on your part if you're trying to have a
4 record protected for appeal because you need an attorney to
5 help you make that record.

6 THE DEFENDANT: Okay. Well, the question again was
7 I would still --

8 THE COURT: In terms of subpoenaing witnesses --

9 THE DEFENDANT: I would not be allowed to have
10 witnesses subpoenaed for my defense?

11 THE COURT: I saw something that you indicated you
12 want to subpoena the witnesses identified by the government so
13 you can direct exam them; is that what I understood?

14 THE DEFENDANT: That's one of them. The other is
15 character witnesses, three attorneys out of St. Louis and the
16 prosecuting attorney out of Howell County.

17 THE COURT: Let me just first say, if the government
18 is going to have witnesses here, then I would not authorize
19 subpoenas for those witnesses so you could direct exam. You
20 want to be able to cross-examine witnesses. That's by far a
21 better way to -- you can ask leading questions and do things
22 on cross-exam that you can't do on direct exam.

23 In terms of those attorneys, now, Mr. Johnson, did
24 you follow up on that? What was the deal on that?

25 MR. JOHNSON: Yes, Your Honor. There was three

1 attorneys that Mr. Joos wanted me to contact. First one was
2 Jack Pierson, and I found out Friday that Mr. Pierson was
3 murdered in August of 2009. I contacted Larry Barker. Larry
4 Barker is a practicing attorney. He hasn't had any contact
5 with Mr. Joos in over 15 years. I contacted Mr. Mike Nack.
6 Mr. Nack stated that he had contact with Mr. Joos about three
7 years ago, but the two attorneys I spoke to, as far as my
8 trial strategy, they wouldn't lead any credence or help in
9 behalf of Mr. Joos and what they could testify to. Most of
10 what they could testify to would be when they knew him 15, 20
11 years ago.

12 THE COURT: Were these people you went to school
13 with, Mr. Joos?

14 THE DEFENDANT: Yes, sir. One was my Explorer Post
15 advisor. I didn't know he had been murdered. He was -- I
16 grew up with him. He was my Explorer Post advisor, assistant
17 scout master. Mike Nack I grew up with. I've stayed in
18 contact with him for years. And Larry Barker I met in college
19 and worked for him for awhile. He was in the administration
20 of the college I went to, and I maintained contact with him.
21 He's been down to the property and dealing with document --
22 this list of achievements and all my background prior to, you
23 know, my becoming an ordained minister.

24 THE COURT: Well, some of that might be -- if you're
25 convicted, some of that might be more relevant towards

1 sentencing. I don't know. But, again, there will be
2 instructions, specific instructions that will deal with the
3 issues in this case that will be pretty much limited to did
4 these guns travel in interstate commerce, were you in
5 possession of them, and the explosive as well, and do you have
6 a prior felony conviction. The evidence in this proceeding
7 will be pretty much limited to those issues.

8 THE DEFENDANT: So the other -- quickly through
9 these other questions. I would not be allowed to depose
10 government witnesses?

11 THE COURT: To depose them?

12 THE DEFENDANT: You can't depose government
13 witnesses?

14 THE COURT: I'm not sure what you and your attorney
15 have discussed.

16 Mr. Johnson, is there something that I'm missing
17 here?

18 MR. JOHNSON: No, sir. He had asked for a
19 deposition of government witnesses and it's my understanding
20 that in criminal cases depositions are not permitted. And the
21 government -- I've looked at all the evidence, gone through
22 this, I spoke to Mr. Ian Lewis, Mr. Joos' first attorney, as
23 well as Mr. Loge, their investigator on a couple of occasions,
24 and I'm convinced I've seen all the evidence, read it and it's
25 all there.

1 THE COURT: Okay. All right.

2 Mr. Joos, did you have another question?

3 THE DEFENDANT: Yes. Subpoena would -- I was not
4 allowed to subpoena records on appeal, the records from the
5 state cases. Those are not allowed?

6 THE COURT: Not in this case.

7 THE DEFENDANT: Okay. So that would include
8 evidence, then, in those cases would not be allowed; is that
9 true?

10 THE COURT: Well, I don't know exactly what your
11 subpoena request is but what I am telling you is in terms of
12 those convictions, the issue before this Court is is there a
13 valid conviction that is a final judgment in state court.
14 Now, in terms of if there was some constitutional violation in
15 the trial that you had, that will have to be taken up in some
16 other forum, either in the state or a constitutional issue
17 here, but not in this case because this case the government
18 will prove the conviction part if they can prove to me that
19 you have one or more state court convictions that are final
20 judgments in state court. Then the jury, I believe, will
21 still have to make a decision as to whether or not it's you
22 that is the subject of those convictions, I believe, but
23 that's the issue here.

24 THE DEFENDANT: Okay. So would I be allowed to
25 subpoena government files, all government files, ATF, FBI,

1 FEMA, Secret Service, IRS? They've all got files on me.

2 THE COURT: In this case? That relate to this
3 case --

4 THE DEFENDANT: That relate to this case.

5 THE COURT: -- or other cases?

6 THE DEFENDANT: In other words, that would relate to
7 my defense of this case. My defense is based on 30 years of
8 government persecution and I'd be able to prove persecution
9 through all these records and files they've kept on me.

10 THE COURT: It's hard for me to answer generally
11 like that. It's my understanding that the files in relation
12 to this case, that your attorney has had a chance to review
13 that and I suspect you had a chance to review some of that.

14 THE DEFENDANT: No, I haven't seen any of these
15 except for the ATF.

16 THE COURT: Well, maybe not what you're referring to
17 but you --

18 THE DEFENDANT: I'm talking about government files
19 on me.

20 THE COURT: Yeah. The issues and subpoenas in this
21 case would be limited to matters related to this case, not 30
22 years ago.

23 THE DEFENDANT: Okay. What about -- well, not just
24 30 --

25 THE COURT: I'm just trying to give you an example.

1 THE DEFENDANT: From now all the way back 30 years.
2 This ATF harassment has been going on for at least 20 years
3 that I know of. I can subpoena witnesses that will testify
4 that they caught ATF agents searching property without a
5 warrant 15, 20 years ago. It was deputy at the -- in fact,
6 the deputy and sheriff of McDonald County caught them.

7 Subpoena duces tecum for Rebecca Stevens who's a CI
8 in this case because I believe she has exculpatory evidence,
9 and I know there's stuff that wasn't in the discovery that she
10 has that she got from me. In other words, it was exculpatory,
11 that's why it's not in the file, obviously.

12 THE COURT: Is she somebody that's going to testify?

13 MR. KELLEHER: No, Your Honor.

14 THE COURT: Who is she?

15 MR. KELLEHER: She was involved in this case.

16 THE COURT: Here's what I would say to you is that
17 the government's going to have to make their case, apparently
18 not with this particular lady. I just have to deal with the
19 evidentiary issues as they come up. Mr. Joos, I'm not sure
20 what you're getting at there.

21 THE DEFENDANT: Well, what I'm getting at, the
22 government is withholding exculpatory evidence.

23 THE COURT: Well, I guess I would say present that
24 to me in some type of motion, talk with your counsel if there
25 is some, but it's hard for me -- until I hear what the

1 evidence is, it's hard for me to know what we're talking about
2 on that.

3 THE DEFENDANT: I wanted a complete set of Revised
4 Statutes of Missouri 2004 for reference and --

5 THE COURT: That would deal with your prior
6 convictions.

7 THE DEFENDANT: -- in this case. So that's a no on
8 that?

9 THE COURT: Well, if you want to look at the books,
10 I'm sure -- is there a particular section you want to look at?

11 THE DEFENDANT: Well, there are several sections
12 that deal with -- again, it's a fact issue. The state is
13 claiming that I'm a convicted felon.

14 THE COURT: Let me answer --

15 THE DEFENDANT: I'm not a convicted felon. I'm a
16 falsely-convicted felon.

17 THE COURT: Let me answer something you just said
18 there. See, you said it's a fact issue.

19 THE DEFENDANT: Yes.

20 THE COURT: That's what those cases had to deal with
21 in those cases. They were probably jury trials, weren't they?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: The jury decided the facts in those
24 cases. Now, to be quite honest with you, we're not going to
25 redo the facts of those cases in this court. What I can --

1 the only thing I can -- I hope you can understand that, that
2 we can't retry those cases when we're trying to try a
3 different case here. You may have relief -- I don't know
4 whether you have constitutional claims or not. You may have
5 them because they reach pretty far, but they're not properly
6 presented in this case. You may file something that brings
7 that to issue later on. I don't know.

8 THE DEFENDANT: I've already filed things trying to
9 get it presented in this case.

10 THE COURT: No, no. I'm talking about file a
11 petition or a complaint in federal court or a petition in
12 state court that's a separate action. But in terms of this
13 case, those will not be an issue. Now, if I'm wrong, the
14 Court of Appeals can tell me I'm wrong. I have to make
15 decisions as we go through this case today as well. But when
16 we get to the elements of the case, it will not get into the
17 facts of your prior convictions, it will just get into the
18 existence of your prior convictions and whether or not they
19 are final, valid judgments in state court.

20 THE DEFENDANT: Okay. The other thing I wanted --
21 which I didn't get my gag order on -- the press. The first
22 thing this morning they're on there, white supremacist is
23 going to get a motion to get -- something about a motion to
24 have an extension of his trial.

25 THE COURT: Now, I didn't see the -- was this in the

1 paper?

2 THE DEFENDANT: One of the guys in the pod said,
3 "Hey, you're on the TV." I walked out there in the TV room
4 and there I am. It's the same thing they always do to me,
5 poison the jury pool by weeks and weeks of advance news
6 claiming I'm a white supremacist --

7 THE COURT: Well, now, I will --

8 THE DEFENDANT: -- and a Nazi and a clan leader and
9 all kinds of other crap --

10 THE COURT: Okay.

11 THE DEFENDANT: -- that they use to poison the jury
12 pool so I can never get a fair trial.

13 THE COURT: What you just said was -- we will take
14 that up because the next thing we're going to do is pick a
15 jury and I'll ask them if they know you. But now tell me,
16 because I didn't know that it was in the press today, so
17 you're saying it was on TV this morning?

18 THE DEFENDANT: It was on TV this morning. I didn't
19 catch what channel it was on. I wasn't paying that much
20 attention. Obviously it was my picture and that's what they
21 were saying. It's typical. It's what they always do. And
22 there's been references. I've caught a couple other
23 references in the past when I've been up here for hearings
24 they've put it on the press. Plus, there's over 100 websites
25 that list me as a domestic terrorist, a white supremacist and

1 all kinds of other lies.

2 THE COURT: Well, I'll ask the jury about that. If
3 anybody has feelings about that, they won't be on the jury.
4 And you know you and your counsel will knock off 10 people on
5 whatever decision-making you want to, you understand that?

6 THE DEFENDANT: Yes, sir. I wanted to access a law
7 library but I can't get that either, can I?

8 THE COURT: Well, I guess it depends on what it's
9 for. If it's to go back and deal with these prior
10 convictions, we're not going to do that today.

11 THE DEFENDANT: Well, it's to prepare defenses for
12 this case. I've done the best I can with whatever I could get
13 my hands on.

14 THE COURT: You have an attorney here, and my
15 suggestion is you talk with your attorney about those defenses
16 that you're talking about. Now, I gather from some of your
17 writing that you think that you're subject to a different law
18 than what you're anticipating I think you are; is that right?

19 THE DEFENDANT: No, I'm subject to the same law as
20 everybody else.

21 THE COURT: Okay.

22 THE DEFENDANT: But at the same time, so is the
23 prosecutor. And one of the prosecutor's jobs is to see --
24 I've got a court case on this right here if you want me to
25 look it up, says the prosecutor's job is to see to it that

1 innocent people aren't prosecuted. And if he'd taken --
2 bothered to take the time to review these state cases, he
3 would have seen that they were false convictions.

4 THE COURT: Okay. Now, again --

5 THE DEFENDANT: If they're false convictions, I'm
6 not a felon in possession.

7 THE COURT: Okay. I just have to remind you again
8 that the review of the underlying facts and procedure in those
9 state cases is something that is not going to be reviewed here
10 today in this case. Anything else?

11 THE DEFENDANT: Yeah, just one thing. I want to
12 know if you're a Mason.

13 THE COURT: If I'm a Mason?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: No, I'm not.

16 THE DEFENDANT: Okay. Thank you. And based upon
17 this, what you've told me, since I have no other recourse,
18 there's nothing else I can do about this, I'll withdraw my
19 motion to remove the defender.

20 THE COURT: Okay. Well, that is accepted and I
21 think that's good advice on your part because your attorney
22 has been here before and has experience of not only handling a
23 case and examining witnesses but also in preserving your
24 claims for appeal, which from what I've heard here is
25 important to you here.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. Now, one other thing is my
3 suggestion would be that you get different clothes on. Are
4 you interested in that?

5 THE DEFENDANT: I tried to get them to bring my
6 clothes up from jail. They wouldn't do it.

7 THE COURT: Well, let me ask the marshal, where are
8 we on clothes?

9 THE DEFENDANT: Sir, I don't --

10 THE COURT: Wait just a minute.

11 Are clothes available?

12 THE MARSHAL: I spoke to St. Clair County this
13 morning. St. Clair County said they were going to bring them
14 up and they were told no, that he wasn't going to go to trial,
15 he didn't need them. They told them that so they didn't bring
16 them with him. I have some -- a shirt downstairs, I have some
17 different things that I can try to put him into, make him look
18 a little bit better.

19 THE DEFENDANT: I didn't tell them I wasn't going to
20 trial. I said I'm going up there for a motion hearing to get
21 this trial extended.

22 THE COURT: I'll --

23 THE DEFENDANT: And I asked them about the clothing
24 and they said nobody told them to bring any clothes up here
25 with me.

1 THE COURT: Okay. Well --

2 THE DEFENDANT: So then downstairs the marshal told
3 me -- or somebody told me downstairs that they're not allowed
4 to bring clothes from the jail.

5 THE COURT: Okay.

6 THE DEFENDANT: I don't wear clothes that are not
7 within the laws of God. I mean, I wear these clothes under
8 duress --

9 THE COURT: Well, what clothes would you --

10 THE DEFENDANT: -- because they won't let me out of
11 my cell without my underwear.

12 THE COURT: Let's get to the nitty-gritty here.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: We will get you some clothes that would
15 be civilian-type clothes, a shirt and some pants and something
16 different than you've got on. Will you wear it if they get
17 it?

18 THE DEFENDANT: Not unless it complies with the laws
19 of God.

20 THE COURT: Well, what kind of clothes --

21 THE DEFENDANT: It's got to have fringe down the
22 sides and it's got to have a violet ribbon around the border.
23 It has to have fringe on the border.

24 THE COURT: Okay. Is that the only clothing you'll
25 wear?

1 THE DEFENDANT: That's the only clothing I'll wear
2 other than underclothing. That's not required to have it on
3 it. Any surface clothing has to be in compliance with the
4 law.

5 THE COURT: So unless it's got fringe down the --
6 what, down the whole outer seam, is that what you're --

7 THE DEFENDANT: Yes. Fringe on four corners, which
8 would be down the seams of the shirt and then around the
9 borders of the bottom with a violet ribbon around that.

10 THE COURT: Well, I'm quite certain we don't have
11 that clothing available. But I just want to be sure, now,
12 because we can get other clothing for you. Are you telling me
13 that you will refuse to wear any other clothes?

14 THE DEFENDANT: Yes, sir. My religion prohibits
15 that.

16 THE COURT: You'll be in court just like you are,
17 then.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Okay.

20 Now, we've got some other stuff to cover -- you can
21 go ahead and sit down because I want to get this covered here.
22 So, first of all, in regard to the picking of the jury, I will
23 conduct the questioning of the jury. I've got the proposals
24 that each counsel has given to me and I'll go through that and
25 I'll give you a chance to tell me if you have any other

1 additional questions at one point and we'll deal with that.

2 When we get to the opening instructions, I will give
3 the standard instructions. Both counsel has provided those to
4 me. And just to tell you, there will be seven instructions.
5 The 1.01 will be the first instruction; No. 2 will be 1.03;
6 three will be 1.05; four will be 1.06; five will be 1.07; six
7 will be 1.08, and seven will be 1.09.

8 Does the government have any objections to those
9 instructions?

10 MR. KELLEHER: No, Your Honor.

11 THE COURT: Do you have any additional instructions
12 you want me to offer?

13 MR. KELLEHER: No, Your Honor.

14 THE COURT: And I'll ask defense counsel, do you
15 have any objections to those seven instructions?

16 MR. JOHNSON: No, sir, Your Honor.

17 THE COURT: Do you have any additional instructions
18 you want me to offer?

19 MR. JOHNSON: No, sir, Your Honor.

20 THE DEFENDANT: Sir, I'd like to consult with my
21 attorney. I have some proposed jury instructions I'd like him
22 to go over before --

23 THE COURT: Here's what I'm going to do is we won't
24 give the instructions until after we pick the jury. You can
25 talk with your attorney, but do you understand that there is a

1 book of instructions that we get these from?

2 THE DEFENDANT: Yes, sir, I do, and I got access to
3 some legal information and had suggestions in there what
4 instructions -- particularly in a firearms case -- that need
5 to be made --

6 THE COURT: All right.

7 THE DEFENDANT: -- in order to preserve for appeal
8 issues that have not yet been ruled on by the U.S. Supreme
9 Court but have conflicting rulings in the appellate courts.

10 THE COURT: Keep in mind, these are opening
11 instructions, not closing instructions. The closing
12 instructions set forth the elements of the --

13 THE DEFENDANT: Oh, okay.

14 THE COURT: -- offense --

15 THE DEFENDANT: Okay.

16 THE COURT: -- and I think that might be what you're
17 talking about.

18 THE DEFENDANT: Yeah, that's the ones I'm talking
19 about.

20 THE COURT: You talk with your attorney and he'll
21 make a record of -- and present, and I can make rulings on it.
22 But what we're talking about are just the opening instructions
23 about how the trial is going to proceed. But if you have
24 some -- I'll just ask counsel to present the objections or the
25 additional instructions to me before we get ready to start

1 this case.

2 MR. JOHNSON: Yes, Your Honor.

3 THE COURT: Okay. Now, opening statements will be
4 limited to 30 minutes. Does the government want a warning on
5 your opening statement?

6 MR. KELLEHER: I don't think there's any possibility
7 it will be anywhere near 30 minutes, Your Honor.

8 THE COURT: So no warning?

9 MR. KELLEHER: No, sir.

10 THE COURT: Defense counsel, you want a warning?

11 MR. JOHNSON: No, sir, Your Honor.

12 THE COURT: Okay. All right. I think we're ready
13 to bring the jury up and pick them. Is there anything else by
14 the government before we do that?

15 MR. KELLEHER: I believe the defendant needs to be
16 unshackled before we bring up the jury.

17 THE COURT: They'll take care of that.

18 MR. KELLEHER: Not at this point.

19 THE COURT: Defense counsel, do you have anything
20 else?

21 MR. JOHNSON: Yes, sir, Your Honor. I think the
22 Court needs to instruct the defendant when the case ensues the
23 objections will be mine; he's not to pop up and object and --
24 while this is going on.

25 THE COURT: Mr. Joos, counsel made a good point, and

1 that is even though I've kind of -- we've had our
2 give-and-take here as if you're representing yourself, and
3 when we're outside the jury, I'm okay with that, but my advise
4 to you is when we're in trial and the jury's sitting here, you
5 talk with your counsel, let him present the objections or
6 anything you've got. Okay?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: I'm saying this for your own benefit,
9 getting your best foot forward that you can here with regard
10 to this jury pool we're going to have.

11 But in terms of his shackles there, the leg is okay
12 but --

13 THE MARSHAL: We'll remove it.

14 MR. KELLEHER: There's one thing that I have
15 neglected to mention. Mr. Nance, Deputy Nance will be one of
16 the government's witnesses. He took fingerprints from the
17 defendant. Obviously, at some point there will be the rule on
18 witnesses. I just want to make sure that there's no objection
19 by the defense to having him present in court.

20 MR. JOHNSON: No, sir, no objection, Your Honor.

21 THE COURT: Okay. All right. Anything else?

22 MR. KELLEHER: No, sir.

23 MR. JOHNSON: Nothing from the defense, Your Honor.

24 THE COURT: Let me ask you this. We're going to be
25 here for about another hour and a half before we take a break.

1 Mr. Joos, are you good for an hour and a half?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. Everybody else, be about five
4 minutes before they get them up here, but if you need to take
5 care of business, do it.

6 (Court stands in recess at 9:35 a.m.)

7 (Venire panel enters courtroom at 9:55 a.m.)

8 (Call to Order of the Court.)

9 (Voir dire.)

10 (Court stands in recess 12:00-1:30 p.m.)

11 THE COURT: Please be seated.

12 Are these the carts that you were talking about?

13 MR. KELLEHER: Yes, Your Honor.

14 THE COURT: It seems like you have covers there over
15 them and that's good.

16 MR. KELLEHER: There's covers on the ones with the
17 guns on them and the other ones I've kept the ammunition as
18 concealed as I possibly can.

19 THE COURT: I think that's fine. That's a good way
20 to do it.

21 All right. Are we ready to bring in the jury?

22 MR. KELLEHER: Yes, Your Honor.

23 THE COURT: Government counsel ready for the jury?

24 MR. KELLEHER: Yes, sir.

25 THE COURT: Defense ready?

1 MR. JOHNSON: Yes, sir.

2 THE COURT: All right. Bring them in.

3 (Jury enters courtroom at 1:32 p.m.)

4 THE COURT: Please be seated. Looks like we got
5 everybody back from lunch okay.

6 All right, ladies and gentlemen, now I'm going to
7 read some instructions to you and after that we'll have the
8 opening statements by counsel and then we'll start the
9 evidence of the trial.

10 Now, these instructions that I read to you, I'll
11 have some now, I may or may not have some during the trial,
12 and then I'll have some closing instructions. And you may
13 hear me say something and think, I better write that down.
14 Don't worry about it, you're going to get the instructions
15 themselves. So when I'm reading these, you don't need to
16 write it down because you're going to get the instruction
17 itself and you can look at it and review it all you want.

18 So we'll start with Instruction No. 1.

19 (Court reads Instruction Nos. 1-7 to the jury.)

20 THE COURT: Is the government ready to proceed?

21 MR. KELLEHER: Yes, Your Honor.

22 THE COURT: All right. Go ahead.

23 MR. KELLEHER: Good afternoon, ladies and gentlemen.

24 As the judge told you earlier, my name is James Kelleher. I
25 am an Assistant United States Attorney and it's my duty and

1 responsibility over the course of the next couple of days to
2 present the case against Robert Joos to you all.

3 To that end, in just a few minutes you will hear
4 from Special Agent Tristan Moreland. Agent Moreland is an ATF
5 agent out of Arizona, and back on January 26th of 2004, he was
6 assigned to investigate the explosion of a package that was
7 detonated in the office of Don Logan who was at the time the
8 director of diversity and dialogue for the city of Scottsdale,
9 Arizona. Mr. Logan suffered some injuries as a result of this
10 blast and two other individuals were also injured. Now, let
11 me stop right there. This is not what this case is about.
12 The only reason I bring that up is because it explains how we
13 get to this point.

14 Now, Agent Moreland will explain that within a short
15 time he developed a couple of suspects in this explosion, two
16 individuals by the name of Daniel and Dennis Mahon. As part
17 of this investigation he pulled the phone records of Dennis
18 Mahon. They're called toll records. What it essentially is
19 is a list of all the phone numbers that Dennis Mahon called at
20 or around January 26th of 2004. And as best as Agent Moreland
21 could decipher these phone numbers, the very first person who
22 was called after this explosive device was placed was the
23 defendant, Robert Joos. As a result of his information, in
24 early 2005 he was able to get a confidential informant close
25 to the Mahon brothers and that confidential informant gained

1 the trust of the Mahons and after a very short time the Mahons
2 told them about one of their associates who lived in southwest
3 Missouri, Robert Joos. And over time the confidential
4 informant was able to make contact with Mr. Joos and in 2008
5 this informant traveled up to Missouri and briefly met with
6 Mr. Joos.

7 Once the informant had obtained Mr. Joos's trust,
8 the informant, along with two ATF agents, including Agent
9 Moreland, went up to Mr. Joos's compound here in McDonald
10 County, and you'll hear what took place during that initial
11 meeting. Essentially, the defendant showed him around his
12 property, the defendant explained some of his views, he
13 explained the importance of having guns and ammunition and
14 having a stockpile of both at various locations within his
15 compound. And when Agent Moreland was taken inside Mr. Joos's
16 residence there on that property, he was able to observe what
17 he believed were firearms. Now, they are covered by blankets
18 and stuff but the butt stocks, the end of the guns, were
19 visible underneath the blankets. And eventually Agent
20 Moreland got in contact with some local ATF agents and it was
21 determined that Mr. Joos had sustained a number -- two prior
22 felony convictions before this time.

23 Now, Agent Moreland came back again in February of
24 2009 and met with Mr. Joos again and during that meeting
25 Mr. Joos was apparently a little bit more comfortable with the

1 undercover agents being on his property and the guns were out
2 there in the open. And, in fact, Agent Moreland will tell you
3 that he asked Mr. Joos about a shotgun, a Mossberg shotgun
4 that was in plain view, and Mr. Joos confirmed yes, it was a
5 Mossberg and, yes, it's mine.

6 Well, based upon all this information, in June of
7 2009 the Bureau of Alcohol, Tobacco, Explosives and Firearms
8 obtained a search warrant -- permission, if you will -- to go
9 onto Mr. Joos's property and take these guns, and on June 25th
10 of 2009 a number of ATF agents, assisted by the Missouri State
11 Highway Patrol, entered Mr. Joos's property. Mr. Joos was
12 found inside of his residence and a search of that residence
13 uncovered 15 shotguns, rifles and handguns, almost all of
14 which were loaded, in various areas in his residence. There
15 were a couple by the front door, one by the back door, some
16 more scattered about the main living area, there were some
17 upstairs, and they also found a very large quantity of
18 ammunition there in his residence.

19 The searchers -- and you'll hear from those other
20 individuals as well, but the searchers also in searching
21 another building on this property discovered gun powder, fuse
22 and electric blasting caps. Now, like firearms, it's illegal
23 for felons to possess explosives and blasting caps are
24 explosives because they are considered both detonators and
25 they also detonate by use of a high explosive. Consequently,

1 as a felon, Mr. Joos was not allowed to possess them.

2 You will also hear testimony from expert witnesses
3 attesting to the fact that these blasting caps were explosives
4 in their ability as expert witnesses. You will also hear from
5 a number of other individuals who will tell you about where
6 the firearms were manufactured, where the blasting caps were
7 manufactured. That may not seem very important, but under
8 federal law in order for a person to be convicted of this
9 crime, the government must prove that the firearms, the
10 ammunition, and/or the blasting caps all traveled in
11 interstate commerce. And I expect at the close of trial the
12 judge will instruct you that if a given item, be it a firearm,
13 piece of ammunition or blasting cap, was manufactured
14 somewhere else and came into the state of Missouri, it
15 traveled across an interstate line.

16 Long and short of it is, you will hear from two
17 experts, one of whom will testify about the origin of the
18 blasting caps and another expert will testify as to the origin
19 of the firearms and the bullets. For what it's worth, the
20 firearms also, in many cases, have manufacturer's marks
21 showing exactly where they're from.

22 Finally, you will also hear and see evidence that
23 the defendant was a convicted felon. He was convicted on two
24 separate occasions, once for being -- for unlawful use of a
25 weapon and he was convicted of the felony of driving while

1 license suspended. And you will not only see the documents to
2 support that but you'll also hear from the defendant's
3 probation officer. You will hear that the defendant was on
4 parole, actually, until 2009 and she supervised him after he
5 was released from prison. Both of those felonies, unlawful
6 use of a weapon and driving while license suspended, are
7 punishable by more than one year in prison. In fact, the
8 defendant was sentenced to serve more than one year in prison
9 as to each of those prior convictions.

10 At the end of this trial, after seeing this rather
11 mountainous pile of evidence, hearing the testimony of the
12 witnesses, most of which will be undisputed, you will find
13 conclusively and beyond a reasonable doubt that the defendant
14 is guilty of possessing firearms and ammunition and explosives
15 all in the capacity as a convicted felon.

16 Thank you.

17 THE COURT: Mr. Johnson.

18 MR. JOHNSON: Thank you, Your Honor. Your Honor,
19 we're going to reserve our opening statement to the
20 presentation of our case.

21 THE COURT: All right. That's fine.

22 Is the government ready to proceed?

23 MR. KELLEHER: Yes, sir.

24 THE COURT: Call your first witness.

25 MR. KELLEHER: The government at this time calls

1 Tristan Moreland to the stand.

2 TRISTAN MORELAND, GOVERNMENT WITNESS, SWORN:

3 DIRECT EXAMINATION

4 BY MR. KELLEHER:

5 Q Sir, would you please introduce yourself to the ladies
6 and gentlemen of the jury?

7 A Sure. My name is Tristan Moreland. I'm a special agent
8 with the Bureau of Alcohol, Tobacco, Firearms and Explosives
9 and I'm currently assigned to Phoenix, Arizona.

10 Q How long have you been with ATF?

11 A Just about 21 years, sir.

12 Q Now, in your capacity as an ATF agent did you have
13 occasion to investigate the explosion of a package bomb back
14 on February 26th of 2004?

15 A I did.

16 Q Could you tell the ladies and gentlemen of the jury just
17 briefly what transpired in terms of that incident?

18 A Sure. The early afternoon hours in Scottsdale, Arizona,
19 a package was delivered through a city mail process in
20 Scottsdale to a black male who was occupied as a diversity
21 officer for the city of Scottsdale. The package was addressed
22 to him. It was opened in his work environment and exploded,
23 injuring him and two of his co-workers. They were assistants
24 to him. And as a result of the explosion, myself and some
25 other federal agents and local officers were summoned to the

1 scene to investigate the explosion.

2 Q Now, after a time did you identify two primary suspects
3 in this incident?

4 A I did.

5 Q Could you tell us who those folks were?

6 A Dennis and Daniel Mahon. They're historically from the
7 Illinois area.

8 Q Now, in connection with following up on the Mahon
9 brothers, what if anything did you do to pursue that lead?

10 A Well, of course, many things were done, one of which was
11 we started by beginning to identify any and all associates of
12 theirs, looking at their schedules, time frames, opportunity,
13 the kind of standard motive issues and so forth and many
14 things. We began by running phone toll records on their cell
15 phones that they were carrying at the time trying to identify
16 time lines as well as establish physical locations sometimes
17 through cell tower records and so forth.

18 Q Through that investigation did you come across the name
19 of Robert Joos?

20 A I did.

21 Q Could you tell the jury how his name emerged in this
22 investigation?

23 A Early on when we first pulled phone records there was
24 many significant things that came from the records but most of
25 which was the series of calls. We had determined through the

1 investigation at this point that the bomb had been initially
2 placed or dropped off at a public library five days before the
3 explosion. And looking at the morning that that occurred, we
4 were looking at the Mahons' phone tolls and looking at the
5 specific phone calls that occurred prior to the bomb being
6 left at about 10:15 in the library and then after, and it was
7 Mr. Joos' phone, one of two phones I believe he had, that was
8 the very first call of that morning from Dennis Mahon to
9 Mr. Joos.

10 Q Now, beginning in early 2005 was a confidential informant
11 working for ATF able to make contact with the Mahon brothers?

12 A Yes.

13 Q And through that contact was the CI able to then make
14 contact with Mr. Joos personally?

15 A That's correct.

16 Q And could you tell the ladies and gentlemen of the jury a
17 little bit about how that took place?

18 A Sure. After initially meeting the Mahon brothers in
19 Oklahoma at the time where they were living, they had learned
20 of Mr. Joos through -- excuse me, CI had learned about
21 Mr. Joos through talking to the Mahon brothers and his name
22 had come up frequently in social and other conversation about
23 a property that they often went to to shoot and do other
24 training-type things and visit as well as a long history of
25 things that they had relationship with Mr. Joos. And they had

1 talked extensively about Mr. Joos being an --

2 MR. JOHNSON: Your Honor, I'm going to object on the
3 basis of hearsay. Conversation is coming from another person.
4 Now, if this conversation were from Mr. Joos, I wouldn't have
5 any problem with that.

6 THE COURT: As I understand it, this is background
7 to get to where the search is based?

8 MR. KELLEHER: It is, Your Honor.

9 THE COURT: So on that basis that it's offered.

10 MR. KELLEHER: It's not offered for the truth of the
11 matter. It's simply to establish the course and conduct of
12 the ATF.

13 THE COURT: For that reason, the objection is
14 overruled.

15 A So through these conversations Mr. Joos had been
16 identified as an associate of theirs and one that was an
17 expert in areas of survivalism and training and weapons and
18 explosives and things like this which was often the subject of
19 conversation between the informant and the Mahons, and the
20 Mahons had said often, you know, "You got to meet this guy.
21 He's great. We'll take you out there to do some shooting.
22 You can visit him." Through that initial contact they gave
23 phone numbers and maps to the informant from Mr. Joos and
24 encouraged that phone calls be made back and forth which began
25 occurring shortly after that initial meeting and then off and

1 on throughout the '05, '06, '07, '08, and '09 years.

2 Q (By Mr. Kelleher) Eventually did this confidential
3 informant under your supervision ultimately make contact by
4 him or herself with Mr. Joos in McDonald County, Missouri?

5 A Yes.

6 Q And after that took place were you able to -- to arrange
7 to meet with Mr. Joos yourself?

8 A I was.

9 Q And, again, could you tell the ladies and gentlemen of
10 the jury how that happened?

11 A In the beginning of 2009, I accompanied the informant
12 with another female undercover special agent for ATF and we
13 visited Mr. Joos personally on his property in Powell, Pine,
14 Missouri, near those towns, and we -- I don't remember the day
15 of the week but we began on one morning and over about a
16 three-day period visited him or hung out with him several
17 hours throughout each day and sometimes into the evening.

18 Q Was this at his property?

19 A Yes, other than the trips that we made together leaving
20 the property, we went to eat, we went to stores, post office,
21 you know, routine kind of run-around.

22 Q I'll show you what's been marked as Government's
23 Exhibit 37. Could you identify that photograph for us?

24 A Sure. It's -- I don't remember the altitude but a few
25 thousand feet above Mr. Joos' property, an aerial view of most

1 of his property.

2 MR. KELLEHER: Your honor, I'd move to admit
3 Government's Exhibit 37 at this time.

4 MR. JOHNSON: No objection, Your Honor.

5 THE COURT: Government's Exhibit 37 is admitted.

6 Q (By Mr. Kelleher) Could you give us an idea of what the
7 landmarks here are? For instance, could you tell us where
8 you actually entered the property?

9 A Sure. This area up here is up where the main gate that
10 we were referred to it as. There's a long, long driveway that
11 comes from the access road and then you enter through a gate
12 down in this area that's a chain-link gate that just opens and
13 then you come down this road here, you're coming down a fairly
14 steep incline, across this area, which is a valley. There's a
15 creek running through this area and this valley is mainly
16 salvage-type vehicles, cars. There's also just general wood
17 and metals and things like that. The main way to cross over
18 is the small creek there's kind of a concrete bridge, if you
19 will, and then you travel up into this area where his main
20 residence that he sometimes referred to as the office also is,
21 that main structure there. Then there's several other
22 outbuildings. There was one other occupant that I saw or knew
23 of living up in this area, mobile homes generally scattered
24 throughout there, a few RVs parked on the property, extended
25 back into this area not much beyond this point, mostly just

1 salvage and same down to this way where the line was probably
2 out of view here but there's a fence line down in this area.

3 Q Now, apart from the individual you noted at the gate
4 area, did you ever note any other inhabitants of this
5 property?

6 A Yeah, the only other was the gentleman who I barely
7 caught a glimpse of one time but that seemed to be always in
8 the front area by the gate. There was one mobile home and he
9 was described to me as Jeff and his wife. And I did see his
10 wife come and go or coming out of the property once as we were
11 driving in but that was it. There was nobody else I saw down
12 on the property or around the property.

13 Q Now, did Mr. Joos show you around his property?

14 A He did. We toured extensively on more than one occasion
15 but we went I think virtually throughout the whole property by
16 the time the visits had ended. We went into 10 or 20 caves,
17 numerous -- we didn't enter every RV or building but we
18 certainly were in the area of every building or salvage or
19 whatever. We actually were working one day hauling some
20 salvage into the property and he basically toured the bluff
21 areas all over the property pretty extensively.

22 Q You indicated you ran across some caves?

23 A Yes.

24 Q Were those notable for any reason or did Mr. Joos
25 indicate that they were notable for anything?

1 A Various things. In -- consistent with his survivalism
2 and his general philosophy on how things might transpire in
3 the world and at some point, he talked extensively about using
4 the caves as defensive positions if there were ever some kind
5 of an assault on the property. He talked a lot about the
6 government, you know, moving in on the population some day,
7 and the caves he talked about were going to be mostly
8 positions for persons to take up and defend themselves and to
9 stock with weapons and ammunition and water and food and all
10 the things that one would need in a situation like that if it
11 were to ever transpire.

12 Q Now, on your tour of these caves did you ever see any
13 indication that he actually had materials stockpiled?

14 A Yes. In a couple of the caves there were ammo cans,
15 there were various containers that we did not open so I don't
16 know what was in them. In one cave he represented that
17 ammunition was in some of the containers. There were some
18 barrels that maybe stored water or some other things. Vast
19 majority of the caves were empty.

20 Q Now, could you give the ladies and gentlemen of the jury
21 an idea of how many caves you saw?

22 A Yes. And when I say cave, just to clarify, some of them
23 were caves in the traditional sense where you walk in and they
24 would wind back and forth and there were cave-like formations,
25 stalagmites and things, but the vast majority I would describe

1 as more like a bluff or a dug out area that might extend
2 anywhere from 10 to 30 feet back, sometimes 60. So those
3 were -- when I say caves, I'm including both of those
4 categories. And we probably either went into or saw 20
5 different caves of that nature.

6 Q Did you get the impression that there were additional
7 caves that Mr. Joos did not show you?

8 A Yes, both the impression and he specifically told us
9 there were caves that he wasn't going to show us and that we
10 weren't going to see.

11 Q Did he indicate why he wasn't going to show you those
12 caves?

13 A At least in one occasion he did. He said that it was his
14 cave and this is where his main stockpile of survival, so
15 forth was and it was very secretive and obviously he couldn't
16 tell us because it would jeopardize the security of that
17 location.

18 Q Now, during your first trip out to visit Mr. Joos, did
19 you engage in conversations with regard to firearms and
20 explosives?

21 A We did.

22 Q And could you give the ladies and gentlemen of the grand
23 jury kind of an idea of what you discussed?

24 A If it's okay I'll maybe collectively just group many,
25 many conversations together. But we generally just talked

1 about anti-government beliefs, sometimes racist beliefs, and
2 we discussed what some people refer to as the movement in
3 general which meaning people that are like-minded and think in
4 terms of anti-government, racism and so forth and how we would
5 collectively defend or, you know, secure the movement's
6 position. And so in those conversations we talked a lot about
7 things that happen, violence, bombings, the use of firearms,
8 how one would both defend and/or be an aggressor in certain
9 situations. We talked about the type of weapons, the
10 calibers, what was more effective at doing what type of jobs.
11 We talked about historical incidents and their value in the
12 history of the movement. A lot of different areas.

13 Q Now, during these conversations did he make it clear to
14 you that he actually had firearms located there on his
15 property?

16 A He did.

17 Q Did he indicate to you why it was important for him to
18 have firearms?

19 A Generally it clearly was part of his life. He, again,
20 had many ideas on how the world was going to evolve and one of
21 the things he talked about was the fact that it's all going to
22 come down to whoever has the guns and money, and stocks and
23 all these other things aren't going to have any value and guns
24 are going to control food supplies. So that was a primary
25 issue to him. He didn't talk much about hunting even though

1 he mentioned from time to time that people did hunt the
2 property but he didn't himself discuss, you know, the use of
3 them for hunting. I think it was primarily a tool of his
4 ideology, is how I would describe it.

5 Q Now, did he also indicate to you that he had some
6 knowledge of the construction and use of explosives?

7 A He did.

8 Q Again, without getting into too specific terms, did you
9 have conversations where Mr. Joos admitted to building
10 explosives and actually using them?

11 A Yes, we had several conversations. He had a fairly
12 comprehensive and extensive knowledge of explosives, both
13 commercially available and clandestinely manufactured. He
14 knew chemical recipes, he knew how certain fuels and oxidizers
15 when combined would function as explosives and clearly he
16 displayed what I would categorize as maybe untrained
17 specifically but clearly getting toward the expert area of
18 explosives and general knowledge of explosives.

19 Q Did he admit to you that he kept on his property
20 materials that could be used to construct explosives?

21 A He did. Specifically, he talked about ammonium nitrate
22 which is an oxidizer used to make explosives. He talked quite
23 a bit about black powder and using that to make pipe bombs. I
24 remember those two off the top of my head.

25 Q Okay. Now, would it be fair to say that there were

1 pretty extensive conversations about explosives and their uses
2 and such?

3 A Yes, there were.

4 Q Now, did Mr. Joos ever indicate to you whether or not he
5 was legally permitted to possess firearms and explosives?

6 A He did. I don't know that we specifically talked about
7 his ability to legally possess explosives as much as we
8 discussed in more detail firearms in general but he talked
9 about how -- the first time I met him he was on parole, I
10 think was the term he used, and that he had a period of time
11 before the parole would expire, and I think the first meeting
12 was, oh, early January, and it seemed to me later that month
13 or at some point he was going to be getting off parole and
14 that he talked about how he had two prior felony convictions
15 and that if he were convicted again he may be a third strike
16 candidate under Missouri law. Generally those kind of
17 conversations.

18 Q So he made it clear that he was not allowed to have
19 firearms, correct?

20 A It was clear to me that he knew, yes.

21 Q Now, during your first visit to the Joos compound were
22 you able to see for yourself whether he had what you believed
23 to be firearms present in the house?

24 A I was. Not a great view, but clearly I saw some
25 firearms, yes.

1 Q Could you describe what you saw?

2 A Yes. In two areas of the front room in the office that I
3 showed in the overhead picture there were not bundles but four
4 or five -- two groups of four or five what I call long guns,
5 could be shotguns or rifles, that one could see a sheet or
6 something was draped over them and you could see the barrels
7 kind of under the sheet making the different heights and
8 formations. They were pretty well covered at the top but near
9 the bottom the sheet was off of the butt stocks so you could
10 see clearly like a couple of butt stocks, one of which I
11 remember being a black plastic and the other one was a wood
12 configuration. I didn't take the sheets off and examine them
13 any further but clearly you could see those. Then there was a
14 group that was kind of by a little stair going up to a landing
15 that was a similar situated, four or five guns up against the
16 wall standing up with cloth over them.

17 Q Now, before we go any further, you referred to this
18 residence as office and I'll show you what's been marked as
19 Government's Exhibit 38. If you would, could you identify
20 this photograph for us?

21 A Sure. That's a picture of the office as one looks at it
22 standing in front of it looking at it.

23 MR. KELLEHER: I'd move to admit Government's
24 Exhibit 38 at this time.

25 MR. JOHNSON: No objection, Your Honor.

1 THE COURT: Government's Exhibit 38 is admitted.

2 Q (By Mr. Kelleher) Now, could you describe this
3 structure for the ladies and gentlemen of the jury as best
4 you can?

5 A Sure. This wood building is access. There's a door
6 which one can maybe see over the top corner of the Jeep here
7 but that goes into like a shed area that's the length of the
8 building from front to rear, and then there's a small door
9 from within that shed that goes into the house left, and as
10 you get into that door, this front room here is the main
11 living room with the fireplace, and then as you turn right
12 from the front door, you go into the kitchen and back to an
13 office area in the rear, and then as you move left from the
14 kitchen toward this direction, you go into the hallway where
15 you cross straight over to a bathroom. There was a closed
16 door to the left that I always thought was a bedroom but the
17 door was never opened. Then the hallway went back to the
18 right from the bathroom down to the rear of the back of the
19 house. This little area up here there's like a loft where
20 there was a spiral staircase in the back that went up to the
21 loft. I never went up in the loft. But from the front living
22 room area the loft stopped at the living room by the fireplace
23 and it was just open so it was a higher ceiling there and
24 there was a window to the front that was covered in a black
25 cloth or it could have been a drape but probably was a blanket

1 or something that covered the window. That's where that
2 little staircase I mentioned where the guns were standing by,
3 you could go up that little stairs to a little probably
4 2-by-12 board that served as kind of a landing to stand on or
5 sit on up in that area.

6 Q Thank you. And this meeting took place beginning on or
7 about January 5th of 2009?

8 A That's right, sir.

9 Q Did you make a return visit to Mr. Joos's compound?

10 A I did.

11 Q And when did that take place?

12 A It was in February of that same year, about a month,
13 month and a half later.

14 Q February 9, 2009, seem about right?

15 A That's right.

16 Q And what was the purpose of that visit, or what did you
17 tell Mr. Joos the purpose of that visit was?

18 A We had been discussing with Mr. Joos how we were making
19 several stops around the country between the time we first saw
20 him and the second visit. I don't know if he was aware but we
21 had notified him at some point that we were up in Illinois
22 visiting the Mahon brothers and that we were going to be
23 heading back to Arizona and we were going to come back through
24 his area to visit him on the way home from Illinois to
25 Arizona.

1 Q Did you, in fact, pay him that visit?

2 A We did.

3 Q Could you tell the ladies and gentlemen of the jury what
4 transpired during that visit?

5 A Basically, we entered the residence. We picked up lunch
6 on the way to his property, told him we were in the area. We
7 drove into the property and met him and we probably spent four
8 or five hours that day in the afternoon mainly just talking,
9 he had cut out some articles of local sales of guns from the
10 newspapers that we looked at and we discussed some of the
11 property management issues he was dealing with on some
12 collateral business he had going. We watched a war movie for
13 the better part of two hours, maybe a little longer.

14 Q Did he explain to you why he wanted you to see this
15 movie?

16 A Yeah, he talked a lot about the movie. It always slips
17 my mind but it's Mel Gibson and it's a -- somewhat of a
18 documentary-type film about a battle in the Vietnam era, and
19 he discussed how the movie was so close to reality on how one
20 could defend an attack by the U.S. government. And we would
21 watch the movie and he would point out, you know, "See how
22 they're doing this tactic and that tactic, that's what would
23 have to be deployed." It was sort of a training session, if
24 you will, on his views of, you know, how things might
25 transpire.

1 Q Before I forget, how did you portray yourself to Mr. Joos
2 to get his trust that he was showing you and telling you these
3 things?

4 A Well, myself personally to him, he was aware through me
5 or the informant that I was basically a clandestine gun
6 seller, that I was involved in some other businesses,
7 handyman-type work and property rehabbing. He became aware
8 that I was involved in violence on behalf of the movement. So
9 generally speaking, I'd say that's what he knew about me.

10 Q Now, during the second visit did you have occasion to
11 discuss firearms yet again?

12 A We did.

13 Q Was it the same type of discussions you had earlier?

14 A Yeah, same general type. I mentioned the newspaper
15 articles. He had cut out several ads where people were
16 selling guns because I had always talked to him about buying
17 and selling, you know, good deals, and he mentioned the same
18 thing, that if the prices were right of this gun, he'd pick
19 that up, or buy this ammunition or whatever. And we also --
20 on that occasion as I came in the house there was a shotgun by
21 the front door that was in plain view this time. I say plain
22 view, maybe that's a law enforcement term, but it was just out
23 in the open, nothing hiding it, standing right behind the door
24 against the wall, and we briefly just talked about it being a
25 Mossberg shotgun and, you know, that was generally about it

1 other than references during the movie about guns and ammo and
2 explosives and so forth.

3 Q I'll show you what's been marked as Government's
4 Exhibit 1. I know that you can't tell for certain, but does
5 this appear to be the make and model of gun that you saw at
6 his house?

7 A It does. I actually at one point had noted part of the
8 serial number best I could, but it looks identical to the gun
9 I saw that day.

10 Q Where did you see this gun?

11 A Behind the -- I'll describe it as the front door of the
12 residence or office but it's actually the second door. I
13 mentioned one going into the shed and then the second door
14 going into the house, and as you entered that door, it was
15 behind that door standing against the wall.

16 Q And, again, I apologize if I missed what you had to say
17 about it, but did you make a remark about the gun?

18 A I did. I had looked at it and I walked about 5 feet into
19 the kitchen and I said something like, "Is that your
20 Mossberg?" or, "Is that a Mossberg?" and he said, "Yeah,
21 that's a Mossberg," and 12-gauge I think was the only other
22 thing we might have mentioned.

23 Q Did he essentially admit that it was his?

24 A Oh, yeah.

25 Q After concluding the February 9th trip, did you ever see

1 Mr. Joos again?

2 A No. I talked to him on the phone on a few occasions and
3 I don't think I've seen him -- I don't recall seeing him until
4 today.

5 Q And do you see Mr. Joos in the courtroom today?

6 A I do.

7 Q Could you point him out, describe what he's wearing?

8 A Sure. He's the gentleman seated third at defense counsel
9 table with the long beard and hair and the orange top, white
10 sleeves.

11 MR. KELLEHER: I don't believe I have any further
12 questions, Your Honor.

13 THE COURT: All right.

14 Cross-exam.

15 MR. JOHNSON: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. JOHNSON:

18 Q Is it Agent Moreland?

19 A Moreland, yes, sir.

20 Q Agent Moreland, you said the first time you went out
21 there was January of '09?

22 A That's correct.

23 Q And when you went out to the property you were referring
24 to his residence, his office or where he stays?

25 A Yeah, the property in general and then, of course, yes,

1 the office residence, yes.

2 Q And, sir, during your investigation did you find out who
3 is the owner of that property?

4 A I did not. I've heard who it is but I did not verify.
5 He represented himself and/or the church to own it to me.

6 Q Okay. Would you be surprised to know that his father,
7 Robert Neil Joos, and his mother, Joanna Joos, and his
8 brother, Devon Joos, are the owners of that property?

9 A I wouldn't be surprised by that, no, sir.

10 Q Did you bother to get a copy of the deed?

11 A I did not but I know other agents did.

12 Q Okay.

13 A And they've reported that to me.

14 Q When you testified about the church owning it, what are
15 you referring to, sir?

16 A Well, he represented to me that the whole property was
17 owned by the church and that the elders, is what he referred
18 to, of the church were the owners or the deedholders or
19 whatever, but there was -- the elders were never identified by
20 name, just the term elders. And he showed me the -- a bluff
21 that was going to be in the future, I think, the area where
22 church service would be held or something like that.

23 Q Surely, sir, in your investigation you would have checked
24 the recorded deeds to find out that a church does lease the
25 property from Bob's parents, not Bob? Did you check on that?

1 A I did not, sir. It wasn't --

2 Q And the -- the residence or the office in I believe it
3 was Exhibit 38, the diagram, was that referred to as the
4 church office?

5 A I don't know the diagram you're speaking of. I drew a
6 diagram at one point.

7 MR. JOHNSON: Your Honor, may I approach?

8 THE COURT: Uh-huh.

9 A Oh, the picture.

10 Q (By Mr. Johnson) Yes, this diagram here. I think it's
11 Government's 38 that's been admitted into evidence.

12 A Okay, sir.

13 Q Did he refer to this as the church office?

14 A Mostly he just said it was the office, but he may have
15 said the church office together from time to time.

16 Q And is that where you found or said that you saw the
17 Mossberg shotgun?

18 A That's correct, sir.

19 Q And in this I was unclear about your testimony, there is
20 an upstairs portion in this building, correct?

21 A Yes, and I'll clarify that again. There was a spiral
22 staircase that went up in the back to what appeared to be a
23 loft overhead. I never went up there.

24 Q You never went up there?

25 A No. In the front there was a landing that one could

1 climb up a little staircase and stand on and look out the
2 window.

3 Q So the January visit when you went out here, I believe
4 you testified that you saw butts of weapons various places
5 with blankets or sheets over them?

6 A Correct.

7 Q And you portrayed yourself as a buyer of guns or gun
8 dealer?

9 A Yeah, I -- yeah, throughout the relationship, yes, he
10 knew I was buying and selling guns.

11 Q Okay. And you went by the name of Jimmy?

12 A Yes.

13 Q And isn't it true when you were out there for the January
14 visit you never saw Robert Joos fire any weapons?

15 A That's correct.

16 Q Never saw him hold any weapons?

17 A I did not.

18 Q And as a matter of fact, only weapons that you saw were
19 butts of weapons?

20 A That's correct. Well, other than, if you will, the
21 barrels, but there was something covering them but clearly you
22 could see from the butt it was consistent that the barrel ran
23 up the blanket from the area of the butt.

24 Q But you never saw them other than --

25 A Other than how I just described, yeah.

1 Q You said he had 10 to 12 caves on the property and he
2 showed you several?

3 A Yeah, there were at least 20 we saw but --

4 Q And you never found any weapons in any of these caves?

5 A Just the ammo cans that he said ammunition was in.

6 Q But those -- and I believe you testified you didn't open
7 those cans so you're not sure what was in them?

8 A No, but there were brass casings laying on the ground
9 where weapons had been fired at some point in history from
10 that area.

11 Q And he didn't show you any automatic weapons?

12 A No, sir.

13 Q Didn't show you any bombs, clay bird bombs or anything?

14 A Not specifically, no.

15 Q Okay. And so there again in these caves that you toured,
16 other than seeing boxes that were what you call ammo boxes,
17 you never looked inside to see what was inside of them?

18 A The ammo boxes in the caves, I did not look in them, no.

19 Q And I believe that the military movie that he sat down
20 and made you watch, was that We Were Soldiers by Mel Gibson?

21 A I believe that is the name, yes. Mel Gibson was the
22 primary actor. I believe that's the name, sir, yes.

23 Q And Bob is big into the military from your conversations
24 with him, did you gather that?

25 A Yes.

1 Q Were you aware of his military experience?

2 A I know that he attended one of the academies for a period
3 of time. I don't know how much outside of that.

4 Q Did he tell you he attended the United States Air Force
5 Academy?

6 A I can't remember if he told me that or if I knew that
7 from my own research but I won't deny that we discussed that
8 at one point or another.

9 Q And I believe that you said the next visit was sometime
10 in February '09, correct?

11 A Correct, sir.

12 Q And in that visit there again you didn't pick up any
13 weapons yourself, physically pick them up, did you?

14 A I handled that Mossberg shotgun.

15 Q You handled that one?

16 A Yeah.

17 Q How about any other weapons?

18 A No, I don't recall touching -- you're talking his guns?

19 Q I'm talking about the guns on that property that you were
20 at.

21 A Well, I had guns, but you're talking things that were not
22 brought by me?

23 Q Correct.

24 A Yes, I don't remember handling any other gun other than
25 the Mossberg.

1 Q Sir, when you came out there and you introduced yourself
2 as one who's interested in guns, did you find it strange that
3 Bob never showed you any weapons to purchase?

4 A No, not at all.

5 Q Did you ask him to show you any?

6 A No. We discussed the newspaper articles and we discussed
7 possibly buying them out in the public but -- we actually at
8 one point discussed how he was expecting a shipment of
9 Mosin-Nagants in at \$100 apiece and I asked him if those came
10 in maybe I could get a couple of those too. That deal
11 apparently fell through, according to him. But we weren't in
12 a relationship where I was buying or selling necessarily to
13 him other than as a favor or a friend. We weren't in a
14 business relationship at all, in my opinion.

15 Q Other than the Mossberg shotgun that's already been
16 offered into evidence, what other guns or bombs or explosive
17 devices did Bob show you?

18 A Well, I'm not sure if I understand your question, but the
19 many long guns that I described earlier were still in the
20 apartment that second time but he didn't take me around and
21 say, Here's my this, Here's my that. We just didn't do that.

22 Q I'm confused. When you say apartment, sir, what building
23 are you referring to?

24 A I'm referring to this residence, I'm sorry, the office
25 that he had the bed in and the fireplace and kitchen.

1 Q And throughout your investigation -- I think it's been a
2 number of years -- did you ever determine that in fact is a
3 residence?

4 A I believe it is, yes.

5 Q Okay. How so, sir?

6 A Well, he had a bed laying on the floor when we first came
7 there, a single mattress that somebody was sleeping in in
8 front of the fire. He ate there. He cooked there. He
9 watched TV there.

10 Q Did you spend the night at all with him?

11 A No. We were there into the evening hours but we didn't
12 stay overnight ever.

13 Q Okay. And, sir, the Mahon brothers, have they
14 subsequently been convicted for that explosion, the bombing?

15 A No, they're awaiting trial, sir.

16 Q And as part of your job investigating with the Alcohol,
17 Tobacco, and Firearms any phone number that was on the Mahons'
18 list, I believe you said, you did investigate where that phone
19 number came from?

20 A We --

21 Q Or who was the owner?

22 A It's in the thousands, but we have done virtually all
23 that's reasonable to do to identify. Some were calling cards,
24 pay phones that came -- there were things that just were dead
25 ends but we did our best to identify all of the people that

1 they communicated with -- or the numbers.

2 Q And you testified that that morning the first phone call
3 that Dennis Mahon made was to a phone number registered to
4 Robert Joos?

5 A Let me clarify that. I don't know if it was registered
6 to him because the subscriber to the phones, one was to a
7 church, or the church, and another phone that we associated
8 with him I think was subscribed to by Jeff, the other guy
9 living on the property, but it was a phone that we talked to
10 him on regularly and that he answered, both of those lines at
11 one time or another throughout the case.

12 Q And just to clarify for the jury and everything, Robert
13 Joos has been -- has not been indicted or any way connected to
14 that bombing in Scottsdale, Arizona; is that correct?

15 A Not to the bombing itself.

16 Q Okay. And those are the only two trips you made out
17 there?

18 A Correct. Well, no, that's not quite correct. Me
19 personally meeting him, January of '09 and February of '09.

20 Q Yes, sir.

21 A I was there on more than one occasion, one being when the
22 informant visited him I was, if you will, directing that
23 operation of her visit so I was present physically but did not
24 meet him. And I think I may have been there one other time
25 independent of all this doing research but I can't recall at

1 this point, so many places over the last five years.

2 Q Okay. Thank you.

3 MR. JOHNSON: Your Honor, I have no further
4 questions.

5 THE COURT: All right. Any redirect?

6 MR. KELLEHER: Just briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. KELLEHER:

9 Q When you're operating in general in an undercover
10 capacity, could you tell the ladies and gentlemen of the jury
11 about the advisability to go opening cans and poking around
12 people's houses?

13 A You don't do that.

14 Q Why not?

15 A You get hurt.

16 Q Is that the reason why you didn't start lifting up
17 blankets and going into ammunition cans in Joos' property?

18 A Yes. It's disrespectful and it's a way to get yourself
19 killed.

20 Q With regard to the other line of questioning, is there
21 also a similar reason why you don't ask these individuals
22 directly to show you their guns and bombs and explosives they
23 might have lying around?

24 A Yeah. These people -- when I say these people, I mean
25 people that are involved in the movement, anti-government

1 types, they're actually fairly sophisticated with respect to
2 law enforcement techniques and you have to be very careful
3 about how you interact with them and associate with them.
4 They know how we do business and they know that we can be
5 sometimes the guy with a little too much money or sometimes
6 the guy that's got too many answers and sometimes the guy
7 who's just a little too curious about the stuff that they
8 possess that might get them in trouble specifically. So you
9 have to walk very carefully in the early stages of these
10 relationships so not to jeopardize your investigation by
11 revealing your law enforcement connections and also just
12 safety. You just don't go down certain roads, especially
13 early on when getting to know somebody.

14 Q Now, Mr. Johnson characterized this as some sort of
15 church. There are lots of structures on this property. Is
16 there anything that would even remotely function as a church
17 in the traditional sense?

18 A Not in a traditional sense. I've been in this line of
19 work a long time and I've actually seen mobile homes, you
20 know, used as a temporary church when there's been a fire or
21 something, but there was nothing on that property that
22 resembled a church or any type of practicing religion or any
23 type of events at all that appeared to be a congregation or
24 anything in the traditional sense that I know of.

25 Q With regard specifically to this residence/office, now,

1 you've described to the jury that there was a kitchen, there
2 was a mattress on the floor in front of the fireplace,
3 television. Were there prayer books, bibles, anything of that
4 nature in this particular structure?

5 A I don't specifically recall seeing anybody -- or any
6 religious books. There may have been a bible somewhere in and
7 around the area because there were hundreds of books,
8 bookshelves, books everywhere on the walls and most of them
9 did not appear -- I didn't see any even grouping of books that
10 appeared to be like religious in nature. It was just about
11 every topic. Some of them were fiction, non-fiction,
12 educational manuals, just everything in the world was in that
13 room so -- but nothing that I saw that was out of the ordinary
14 as more than anybody might have in their home, a bible or
15 something like that.

16 Q Were there pews or any other seating areas that looked
17 like it was dedicated to church services?

18 A Nothing. It was real cluttered. Hardly any room to have
19 any kind of service or anything.

20 Q Were you there when -- during either a Saturday or a
21 Sunday where people might have shown up for religious
22 services?

23 A I think we were there over one of the weekends in the
24 first visit in the three- or four-day period and there was
25 never any talk of it even. It was -- the only time he ever

1 mentioned was where I showed you the bluff -- or I discussed
2 the bluff, I should say. He talked about that some day being
3 where they would hold church service but there was never any
4 sign of it or no mention that, Oh, Sunday I can't -- don't
5 come Sunday because we're going to have a service or
6 something. That's the best I can tell you.

7 Q Now, over the course of the days that you were on this
8 property, you indicated that you only saw one other person
9 other than Mr. Joos; is that correct?

10 A That's correct. Other than the man and his wife that --
11 well, I should say there was Jeff's wife I saw and Jeff I
12 think I saw up by his trailer at the entrance area. Then when
13 we went out to pick up the frame of a mobile home that he was
14 buying for salvage, I believe, or it was being donated to him,
15 there was a man and wife that helped us tow that mobile home
16 frame onto the property. So they were there for an hour or
17 two and then left.

18 Q Apart from those individuals, was there anyone else who
19 ever came onto the property to your knowledge?

20 A No. Maybe one guy at the gate the day we were leaving
21 was selling him salvage but I think he just met him at the
22 gate and that was it.

23 Q Now, were you present when Mr. Joos would hear the sound
24 of automobiles?

25 A Yes.

1 Q In the valley?

2 A Yes.

3 Q Could you describe to the ladies and gentlemen of the
4 jury how he would respond to the sound of just ordinary motor
5 vehicle traffic?

6 A When we would be out on the property and sometimes we
7 would be out walking several hundred yards from the vehicles
8 or up toward the caves or the bluffs, but whenever there would
9 be an engine sound on the ground, not in the air, we would --
10 he would stop, and then of course we would stop, and he would
11 listen and then go through this process of identifying what
12 that vehicle was, where it was coming from. Usually he would
13 refer to it as probably Jeff's tow truck but occasionally he
14 would say that's coming from this area over there and that's
15 probably so and so or -- but very conscious of those type of
16 sounds.

17 Q With regard to the gate area as well as his
18 office/residence, considering the remoteness of this area did
19 he take any security steps that struck you or you noted while
20 you were there?

21 A Yeah. One of the things that I thought was unusual was
22 that he always locked that chainlink or barb wire-type gate,
23 metal gate. Sometimes when we were just dropping him off we
24 would go through the gate, he would get out, he would lock
25 that gate just so we could take him down to the house and then

1 leave and then he would follow us back up to lock the gate
2 behind us. And it was -- for that area when -- I didn't grow
3 up on a property like that, but I can't imagine that -- the
4 driveway alone was like a mile and you could hear a vehicle
5 coming forever. It just seemed odd that that gate always had
6 to get locked day or night.

7 Q So this wasn't the kind of church that you could just
8 walk in and out of? The gate itself just to the property was
9 locked?

10 A Right. Yeah, you could walk, of course, through the
11 woods, I guess, but you'd be walking quite a ways to get down
12 into that valley from where I could tell. Yeah, it was -- as
13 a matter of fact, it was like -- it was uninviting, if you
14 will. It was -- going down in there was -- there was no like
15 welcome signs or anything like that. You clearly knew you
16 were going onto somebody's property and there wasn't any sign
17 that it was a public welcome type environment.

18 Q With regard to his house and residence way on the other
19 side of the valley, how did he treat that in terms of
20 security?

21 A Same kind of thing. We would leave just to go out on the
22 property maybe for an hour and he would padlock the door going
23 into the shed. I know he locked the inside door but I don't
24 remember if that had a deadbolt or whatever but we always kind
25 of had to do two locks to get in and out of the place. Seemed

1 odd. We were going a couple hundred yards across the property
2 for 30 minutes and we were locking everything down, but that's
3 what he did.

4 Q When you say padlock, we're talking about a --

5 A He had like a Master lock or a keyed padlock type thing
6 that was on the -- I think they're called a hasp on the
7 outside door. I don't remember what the inside door was
8 secured with.

9 Q And as far as you know, was Mr. Joos the only one with
10 that key?

11 A Yeah, that's the only person I ever saw open the gates,
12 the doors at all.

13 MR. KELLEHER: Thank you.

14 MR. JOHNSON: Real briefly, Your Honor.

15 THE COURT: Okay.

16 RECROSS-EXAMINATION

17 BY MR. JOHNSON:

18 Q You didn't know if Jeff or his wife at the front gate had
19 keys, did you? I believe your testimony was you may have seen
20 Jeff, you're not sure, but you did see his wife and you saw
21 another fella there?

22 A Yeah. I'm trying to -- I never saw either one of them
23 because their residence was, if you will, outside of the gate
24 that went down to his property and I never saw either one of
25 them go past that gate. I guess in trying to answer your

1 question, I was trying to recall whether Mr. Joos told me if
2 they had keys to any of these properties. The reason I'll say
3 no is because he had to meet us. When we told him we were
4 coming each time, he would have to go to the gate and meet us
5 to unlock it.

6 Q So to answer my question, sir, you really don't know if
7 anyone else had keys also?

8 A No, I don't. I'm surmising based on what I saw.

9 Q Also about the building in Exhibit 38, isn't it true that
10 Bob, he described that as a church office, not where one would
11 go and worship?

12 A He just said it was the office and maybe the church
13 office.

14 Q And I think Mr. Kelleher asked you about you didn't go
15 around pulling up the sheets, looking around because that
16 would be rude and, plus, you've dealt with these type of
17 people for years, correct?

18 A Yes, sir.

19 Q Isn't it true that you were invited out there both times?

20 A Yes, that's fair.

21 Q And Bob didn't search you down to see if you had any
22 recording devices or weapons or anything on you, did he?

23 A Not physically, no. He clearly examined visually to the
24 extent he was capable.

25 Q So he looked at you but he didn't search you or ask you

1 to pull up your shirt or anything?

2 A No.

3 MR. JOHNSON: No further questions. Thank you,
4 Judge.

5 THE COURT: All right. May this witness be excused?

6 MR. KELLEHER: Yes, Your Honor.

7 THE COURT: Mr. Johnson, may this witness be
8 excused?

9 MR. JOHNSON: Yes, sir, Your Honor.

10 THE COURT: You're excused.

11 MR. JOHNSON: Your Honor, I didn't do it beforehand
12 but I thought we talked about it. I do want to invoke the
13 rule against witnesses in this case. Mr. Kelleher brought
14 that up. The only exception would be Mr. Nance.

15 THE COURT: All right. And the case agent here, I
16 guess.

17 MR. JOHNSON: Yes, sir.

18 THE COURT: You understand that?

19 MR. KELLEHER: Of course, Your Honor, yes.

20 THE COURT: Okay.

21 MR. KELLEHER: At this time --

22 THE COURT: You know what, how long is this witness
23 going to be?

24 MR. KELLEHER: It might not be a bad time for a
25 break, if that's what the Court is asking.

1 THE COURT: I was going to take it either now or
2 three, and this helps my decision-making here. We'll take
3 about a 15-minute recess. Be ready to come back in the
4 courtroom at 3:00, then we'll go till five.

5 (Court reads recess instruction to the jury.)

6 THE COURT: We'll be in about a 15-minute recess.

7 (Jury exits courtroom at 2:45 p.m.)

8 THE COURT: Please be seated. Ready?

9 MR. KELLEHER: Yes, sir.

10 THE COURT: All right. Let's get the jury.

11 (Jury enters courtroom at 3:08 p.m.)

12 THE COURT: Please be seated.

13 Call your next witness.

14 MR. KELLEHER: The government at this time calls
15 James Patterson to the witness stand.

16 JAMES PATTERSON, GOVERNMENT WITNESS, SWORN:

17 DIRECT EXAMINATION

18 BY MR. KELLEHER:

19 Q Sir, could you please introduce yourself to the ladies
20 and gentlemen of the jury?

21 A James Patterson.

22 Q Where are you presently employed?

23 A Bureau of Alcohol, Tobacco, and Firearms.

24 Q And how long have you worked for ATF?

25 A Since August of 2001.

1 Q Prior to coming on board ATF, did you have any prior law
2 enforcement experience?

3 A Yes, sir. I spent ten years as a police officer with the
4 Kansas City, Missouri, police department.

5 Q I want to direct your attention to the latter part of
6 2008 and the first half of 2009. During that time period did
7 you take part in an investigation of one Robert Joos?

8 A Yes, sir, I did.

9 Q Now, we've heard a bit of background information from
10 Special Agent Tristan Moreland. During the relevant time
11 period were you briefed on this investigation and his
12 progress?

13 A Yes, sir.

14 Q Now, back in June of 2009, specifically on June 25th of
15 2009, did you participate in the execution of a search warrant
16 in McDonald County, Missouri?

17 A Yes, I did.

18 Q And were you told who occupied the property upon which
19 you executed that search warrant?

20 A Yes. It would be Robert Joos.

21 Q And you would have been aware of the fact that prior to
22 the execution of the search warrant that Robert Joos was
23 alleged to have had some firearms and was in fact a convicted
24 felon, correct?

25 A Yes, sir.

1 Q Among other things, correct?

2 A Yes, sir.

3 Q Now, with regard to the execution of the search warrant,
4 could you tell the ladies and gentlemen of the jury exactly
5 how it transpired that you came onto the property -- the team
6 came onto the property of Mr. Joos?

7 A Members of the Missouri State Highway Patrol SWAT team
8 and members of ATF SWAT team did a dynamic entry of the
9 residence in which they also cleared all the open fields and
10 exterior structures and Mr. Joos was detained by ATF agents
11 just inside the front door of his residence.

12 Q Now, we're talking about a residence. I'll show you
13 what's been marked as Government's Exhibit 38. Is that what
14 you're talking about?

15 A Yes, sir.

16 Q He was located inside this residence?

17 A Yes, sir.

18 Q Once he was taken into custody, were there any other
19 occupants of the property at that time?

20 A No, sir.

21 Q Now, let me ask you this. What time of day was the
22 search warrant executed?

23 A In the very early morning hours. The initiation of the
24 search warrant from SRT standpoint was during the hours of
25 darkness, just, as they would call it, first light.

1 Q So it would be fair to say Mr. Joos was apprehended at
2 first light in this particular structure, correct?

3 A Yes, sir.

4 Q Once this compound was secured, what was your role?

5 A One of my duties as an agent here in the Springfield
6 office is I'm an evidence custodian, so my job was for the
7 structure that you showed me to be the evidence officer and my
8 job was to package -- collect and package evidence listed on
9 the search warrant found inside that residence.

10 Q Now, again, among other things, firearms and materials
11 associated with explosives and explosive devices were the
12 primary things you are searching for; is that correct?

13 A Yes, sir.

14 Q As well as ammunition?

15 A Yes, sir.

16 Q Now, in conducting the search, again, of the residence
17 that I've previously shown you as Government's Exhibit 38, did
18 you in fact discover some items of evidence?

19 A Yes, we did.

20 Q With regard to firearms, I direct your attention to this
21 cart that has a variety of firearms placed upon it. Are you
22 familiar with the firearms that are on this cart?

23 A Yes, sir.

24 Q What firearms are those?

25 A Those are the firearms that we recovered from Mr. Joos's

1 residence on the date of the search warrant.

2 Q All of these firearms were located from this residence?

3 A Yes, sir.

4 Q And was that the same residence that Mr. Joos was located
5 present in during the early morning hours during the execution
6 of that search warrant?

7 A Yes, sir.

8 MR. KELLEHER: With the Court's permission I would
9 ask Special Agent Patterson to step down from the witness
10 stand and identify each of these pieces of evidence rather
11 than me walking back and forth.

12 THE COURT: That's fine.

13 Q (By Mr. Kelleher) If you would, Special Agent, as you
14 identify the items, could you also note where in the
15 residence you obtained the firearms from?

16 A Sure. This was the first item that we took. It's a
17 Mossberg shotgun. It was located right by the front door of
18 the residence.

19 THE COURT: Can we have an exhibit number referred
20 to because that'll keep our record clear.

21 THE WITNESS: This is my No. 1 exhibit.

22 MR. KELLEHER: There's an exhibit number on the back
23 side that has government's exhibit on it.

24 THE WITNESS: It's Government's Exhibit No. 1.

25 THE COURT: No. 1? Okay.

1 Q (By Mr. Kelleher) Now, was that particular item loaded?

2 A Yes, it was.

3 Q Did you take into custody the rounds that were --

4 A Yeah. Item No. 2 would be the four live shotgun shells
5 recovered from it. Also setting right next to the shotgun on
6 the inside of the door on the interior residence was this
7 8-millimeter rifle. That's No. 3.

8 Q The ammunition taken from the shotgun was Government's
9 Exhibit 2. Was this particular weapon loaded?

10 A Yeah, it had four live rounds, and that's No. 4.

11 Then at the back door of the residence is where I
12 located this Westernfield shotgun, and it's Exhibit No. 5, and
13 it also was loaded with Exhibit No. 6, the five live shotgun
14 shells.

15 Then from there there were firearms located on the
16 first floor as well as the second floor, so I'm going to refer
17 to it as the front room. That's the best way I can say where
18 the rest of these long guns were located.

19 This is No. 7 and this was a Harrington-Richardson
20 20-gauge.

21 Q Again, do you recall if that particular weapon was
22 loaded?

23 A Yes, that one was loaded with No. 8. I don't think
24 you've got this one marked.

25 Q That's marked as Government's Exhibit 8.

1 A Okay. And then this was a Winchester shotgun, No. 9, and
2 that would have been from the first floor front room area. It
3 too was loaded. Correction. It should have been loaded. No,
4 that one wasn't loaded then.

5 No. 10, it's a .22. It also was recovered from the
6 front room.

7 Q Was that weapon loaded?

8 A I believe so. Yeah, 16 live .22 caliber rounds.

9 Q Does Government's Exhibit 14 contain those rounds?

10 A Yes, sir. This is another .22 caliber. It's a
11 Remington.

12 Q Is that Government's Exhibit 12?

13 A Yes.

14 Q Was that also loaded?

15 A Yeah, I believe so.

16 I think we got this backwards, sir. No. 12 would
17 have come from No. 11. No. 14 -- they're both .22s -- would
18 have come from No. 13, that rifle.

19 Q Just so the jury knows, would it be fair to say that
20 these have been numbered sequentially; that is, when a weapon
21 is loaded, Government's Exhibit 1, for instance, was loaded
22 with Government's Exhibit 2, and so on and so forth?

23 A Correct. Correct.

24 This was the last loaded long gun, Norinco 7.62. It
25 was also recovered from the front room. It's No. 14. And

1 then No. 15 is the one live round that was in it. And then
2 these last two firearms were recovered from the front room.
3 They were not loaded. And Government's Exhibit No. 16 is -- I
4 can't pronounce it -- Mosin -- I can't say it.

5 Q Is that a Mosin-Nagant?

6 A Yes. It's a 7.62 rifle. And then Government's Exhibit
7 No. 17, which is a Harrington and Richardson single shot
8 12-gauge.

9 Q Did you also locate a number of handguns?

10 A Yes. This Stallard 9-millimeter was also recovered from
11 the front room. It's Government's Exhibit 26.

12 Q Was it loaded?

13 A Yes, with Government's Exhibit No. 27.

14 Government's Exhibit No. 24 was also on the first
15 floor, front room. It's a Tanfoglio .380. It also was loaded
16 with Government's Exhibit No. 25. This was found in the ammo
17 canister in the floor of the kitchen. It's an AMT backup
18 .380. It also was loaded with firearms, Government's Exhibit
19 No. 22, and ammunition is Government's Exhibit No. 23. And
20 the last two firearms were located on the second floor, front
21 room of the residence. And Government's Exhibit No. 20 is a
22 Ruger .22 and Government's Exhibit No. 21 is the ammunition
23 that was taken from it. And Government's Exhibit No. 18 is a
24 Astra 9-millimeter and it was also loaded with Government's
25 Exhibit 19. Eighteen is the gun, 19 is the ammo.

1 Q Now, before you go back on the witness stand, were you
2 also able to locate extra rounds of ammunition?

3 A Yes, I was, throughout the residence.

4 Q And I direct your attention to Government's Exhibit 52
5 which will be two carts over here. Could you explain to the
6 ladies and gentlemen of the jury what is on those two carts?

7 A In excess of 19,000 rounds of various caliber ammunition
8 recovered from the interior of the residence.

9 Q You can step back on the stand. Thank you.

10 Now, you indicated that there were 19 -- over 19,000
11 rounds of ammunition?

12 A Yes, sir.

13 Q That was all located in that residence?

14 A Yes, sir.

15 Q Okay. And are you talking about a fairly large
16 residence?

17 A No, it's small. I can only guesstimate square footage.
18 I didn't measure the house.

19 Q The rounds of ammunition that you recovered, were they
20 rounds of ammunition just specifically for these guns that you
21 recovered?

22 A There were various calibers: 8-millimeter, 9-millimeter,
23 .380, .30-'06, 7.62 rounds, 12-gauge shotgun rounds. There
24 were handgun rounds, .45, without going through each one
25 specifically, I couldn't tell you the exact breakdown in

1 numbers without looking at the back.

2 Q And how do you know that there are 19,000 rounds of
3 ammunition on these two carts?

4 A Per ATF and DOJ policy, when we recover them we have to
5 separate the ammunition into caliber and we have to count
6 every round as part of our policy for putting it into
7 evidence.

8 Q So you counted all of the bullets over here?

9 A Yes, sir.

10 Q You indicated, for instance, that some of the ammunition
11 that you recovered was .30-'06, which is a specific caliber
12 ammunition, correct?

13 A Yes, sir.

14 Q And you also, when going through this, would it be fair
15 to say that you didn't recover a rifle that would fire that
16 caliber round, correct?

17 A No, sir.

18 Q Now, going in to do this search warrant, you were aware
19 that there were caves, correct?

20 A Yes, sir.

21 Q Were you specifically briefed about the cave that
22 Mr. Joos characterized as his personal cave that he kept
23 secret?

24 A Yes, sir.

25 Q Were there any caves that fit that description that you

1 were able to locate?

2 A No, sir; however, on the search warrant I did not enter
3 any of the caves. My function was at the residence. But I
4 was not told any such cave was located.

5 Q Based on your knowledge of the caves these are the guns
6 that were seized as a result of that warrant, correct?

7 A Yes, sir.

8 Q And this is the sum total of all firearms, correct?

9 A Yes, sir.

10 Q Okay. Now, apart from firearms and ammunition, were you
11 also tasked with the duty of confiscating materials related to
12 explosives?

13 A Yes, sir.

14 Q And were you successful in that endeavor?

15 A Yes, sir.

16 Q Show you what's been marked as Government's Exhibit 28.
17 Can you tell us what this exhibit is?

18 A It's an ammo canister. It should contain a canister of
19 black powder or gun powder and some green cannon fuse inside.

20 Q Can you check to make sure? And that green length of
21 material, what is that?

22 A It's called cannon fuse.

23 Q Can you tell us what exactly that is in general terms?

24 A You light it. You could use it to -- you could make a
25 firecracker, you could make a pipe bomb. You light it, it

1 burns down and it gives you time to get away from whatever you
2 lit.

3 Q Show you next what's been marked as Government's
4 Exhibit 29. Can you tell us what's in that bag?

5 A Yes. Inside this bag is also gun powder, Pyrex gun
6 powder.

7 Q Would it be fair to say that gun powder has a variety of
8 uses but among those uses is the construction of explosive
9 devices?

10 A Yes, sir.

11 Q Show you what's been marked as Government's Exhibit 30.
12 Can you tell us what that is?

13 A That's the safety fuse that was given to me by certified
14 explosive specialist Special Agent David Whittaker.

15 MR. KELLEHER: Your Honor, at this time I would move
16 to admit Government's Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,
17 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,
18 26, 27, 28, 29, and 30.

19 MR. JOHNSON: No objection, Your Honor.

20 THE COURT: All right. Exhibits 1 through 30 are
21 admitted. You had a 52 there.

22 Q (By Mr. Kelleher) Now, apart from the items directly
23 related to firearms --

24 THE COURT: Did you hear what I said?

25 MR. KELLEHER: I'm sorry.

1 THE COURT: You had one other, Exhibit 52.

2 MR. KELLEHER: Oh, I'm sorry. And 52.

3 MR. JOHNSON: No objection, Your Honor.

4 THE COURT: Exhibit 52 is admitted.

5 Q (By Mr. Kelleher) Now, apart from the firearms,
6 ammunition and materials related to explosives, were you
7 also tasked with finding materials relating to ownership of
8 the residence and things of that nature?

9 A Yes, sir.

10 Q Okay. And in connection with that, did you find some
11 articles that were issued to a Robert Joos from the Missouri
12 Department of Corrections?

13 A Yes, sir.

14 Q And I'll show you what's been marked as Government's
15 Exhibit 32. If you could, tell us what those are.

16 A This is paperwork, probation and parole paperwork that
17 Sergeant Roger Rinkin from the Missouri State Highway Patrol
18 recovered from the structure that they called the bunkhouse on
19 the property.

20 Q And you took that into custody from?

21 A Sergeant Roger Rinkin from the highway patrol.

22 MR. KELLEHER: Your Honor, I'd move to admit
23 Government's Exhibit 32.

24 MR. JOHNSON: No objection, Your Honor.

25 THE COURT: Exhibit 32 is admitted.

1 Q (By Mr. Kelleher) Did you also locate some
2 documentation concerning explosives?

3 A Yes, I did.

4 Q And were those seized as well?

5 A Yes, sir.

6 Q And I'll show you what's been marked as Government's
7 Exhibit 31.

8 A This is a file that was marked -- written at the top
9 Explosives that was located in a filing cabinet in the kitchen
10 area.

11 MR. KELLEHER: Your Honor, I'd move to admit
12 Government's Exhibit 31.

13 THE COURT: Any objection?

14 MR. JOHNSON: What was that again, a file?

15 THE COURT: You want to take a look at it?

16 MR. JOHNSON: No objection, Your Honor.

17 THE COURT: All right. Exhibit 31 is admitted.

18 Q (By Mr. Kelleher) This is actually a file that has on
19 the top of it Explosives and inside it has what appears to
20 be a recipe and pamphlet from the Department of Treasury,
21 Internal Revenue Service relating to commerce and explosives
22 and explosives list?

23 A Yes, sir.

24 Q As well as a second pamphlet entitled Questions and
25 Answers, Federal Law on Explosives Under Title XI of the

1 Organized Crime Control Act of 1970?

2 A Yes, sir.

3 Q Now, prior to taking most of the firearms into custody,
4 did you also document where they were located by way of
5 photographs?

6 A Yes, photographs were taken inside.

7 Q Show you first what's been marked as Government's
8 Exhibit 40.

9 A That's a photograph taken from the front room of the
10 residence by the front door, an interior photograph where
11 Items No. 1 and 3, the Mossberg shotgun and an 8-millimeter
12 rifle, were recovered from.

13 MR. KELLEHER: Your Honor, I'd move to admit
14 Government's Exhibit 40.

15 MR. JOHNSON: No objection, Your Honor.

16 THE COURT: Exhibit 40 is admitted.

17 Q (By Mr. Kelleher) I direct your attention to the screen
18 and the two guns pictured -- and, again, I won't attempt to
19 do it. You indicated that by the front door to this
20 residence?

21 A Yes, sir.

22 Q Next to the guns what are those items, in case the jury
23 can't make that out?

24 A VHS tapes of various action movies, comedies.

25 Q Again, this is taken from inside the residence, correct?

1 A Yes, sir.

2 Q I'd next direct your attention to Government's
3 Exhibit 41. If you would, could you please identify that
4 photograph?

5 A It's a photograph by the back door of the residence of
6 the Westernfield 12-gauge shotgun.

7 MR. KELLEHER: Move to admit Government's
8 Exhibit 41.

9 MR. JOHNSON: No objection, Your Honor.

10 THE COURT: Exhibit 41 is admitted.

11 Q (By Mr. Kelleher) Again, we're talking back door of the
12 same residence, correct?

13 A Yes, sir.

14 Q Besides the front door and back door, were there any
15 other doors?

16 A No, sir, not to my knowledge.

17 Q I'll next show you Government's Exhibit 42.

18 A Photograph of a .22 rifle and shotgun as well as a BB
19 gun, which the air gun we didn't take.

20 MR. KELLEHER: Your Honor, I'd move to admit
21 Government's Exhibit 42.

22 MR. JOHNSON: No objection, Your Honor.

23 THE COURT: Forty-two is admitted.

24 Q (By Mr. Kelleher) Where was this photograph taken?

25 A That's in the front room of the residence.

1 Q And just so we're clear, the photograph shows three long
2 guns but the middle one is a BB gun; is that correct?

3 A Right, it's air -- it's an air gun.

4 Q Next show you Government's Exhibit 43.

5 A That's a picture of the AMT backup .380 that was
6 recovered from the ammo canister in the floor of the kitchen.

7 MR. KELLEHER: I'd move to admit Government's
8 Exhibit 43.

9 MR. JOHNSON: No objection, Your Honor.

10 THE COURT: Exhibit 43 is admitted.

11 Q (By Mr. Kelleher) Government's Exhibit 44, what does
12 this depict?

13 A Photograph of the Astra 9-millimeter handgun.

14 MR. KELLEHER: Move to admit Government's
15 Exhibit 44.

16 MR. JOHNSON: No objection, Your Honor.

17 THE COURT: Forty-four is admitted.

18 Q (By Mr. Kelleher) Government's Exhibit 45, if you would
19 identify that for me?

20 A It's a .22 caliber pistol and then there's a second
21 firearm with it. I believe it's a .380, have to look at the
22 actual gun.

23 MR. KELLEHER: I'd move to admit Government's
24 Exhibit 45.

25 MR. JOHNSON: No objection, Your Honor.

1 THE COURT: Exhibit 45 is admitted.

2 Q (By Mr. Kelleher) Government's Exhibits 46 and 47, if
3 you would?

4 A I believe 46 is the picture of the Stallard and this is a
5 photograph -- it's a .380. I would have to look at the gun to
6 compare it. I believe it's the Tanfoglio.

7 MR. KELLEHER: Your Honor, move to admit
8 Government's Exhibits 46 and 47.

9 MR. JOHNSON: No objection, Your Honor.

10 THE COURT: Forty-six and 47 are admitted.

11 Q (By Mr. Kelleher) That's 46 and this is 47.

12 Were those firearms actually located in ammunition
13 cans?

14 A Yes, sir.

15 Q Okay. Were those ammunition -- did those ammunition cans
16 actually contain ammunition?

17 A Yes, sir.

18 Q Now, in connection with your duties as a special agent
19 with ATF and in connection with this case, did ATF obtain
20 documentation establishing that Robert Joos was in fact a
21 convicted felon and therefore prohibited from possessing
22 firearms?

23 A Yes, we did.

24 Q Show you what's been marked as Government's Exhibit 33
25 and ask if you would identify that set of documents for me?

1 Specifically the second page, if you would?

2 A It's a certified copy of the judgment and sentence of
3 Mr. Robert Joos. Has his birth date of 12/25/52, Social
4 Security number of 491-52-6259, for unlawful use of a weapon.
5 He was found guilty by a jury, it's a felony, and he was
6 sentenced to 33 months in the Missouri Department of
7 Corrections.

8 Q Is that, in fact, an official document from the McDonald
9 County Circuit Court?

10 A Yes, it has the seal on it.

11 MR. KELLEHER: Move to admit Government's
12 Exhibit 33.

13 MR. JOHNSON: No objection, Your Honor.

14 THE COURT: All right. Exhibit 33 --

15 Q (By Mr. Kelleher) Next show you what's been marked
16 as -- I'm sorry, Judge.

17 THE COURT: Give me a chance here. Exhibit 33 is
18 admitted.

19 Q (By Mr. Kelleher) -- Government's Exhibit 34.

20 A It's a certified conviction document in the name of
21 Robert Neil Joos, birth date of December 25, 1952, for
22 operating a vehicle on a highway without a valid license,
23 felony conviction, ordered on 13th day of October, 2005.

24 Q Does it indicate if he was sentenced to prison in
25 relation to that particular crime?

1 A Yes, he was incarcerated Department of Corrections for
2 two years.

3 Q And finally, I think, Government's Exhibit 35. Could you
4 identify this set of documents?

5 A This is what's referred to as a penitentiary pack.

6 Q Could you just briefly explain to the ladies and
7 gentlemen of the jury what a pen pack or penitentiary pack is?

8 A Missouri Department of Corrections, if you receive a
9 sentence and you go into the custody of Department of
10 Corrections, it's a record of you being present to include
11 fingerprints, photographs, they document alias names, what you
12 were sent to prison for, your religious status, your marital
13 status, emergency contact information. It's to document your
14 time while serving your sentence in the Department of
15 Corrections.

16 Q Is that, in fact, the pen pack of one Robert Neil Joos?

17 A Yes, it is.

18 Q Does it document his identifiers to include his date of
19 birth, alias information, Social Security number, have his
20 fingerprints as well as a photograph?

21 A Yes, sir.

22 MR. KELLEHER: Your Honor, I'd move to admit
23 actually both Government's Exhibit 34 and 35 at this time.

24 MR. JOHNSON: No objection, Your Honor.

25 THE COURT: All right. Exhibits 34 and 35 are

1 admitted.

2 Q (By Mr. Kelleher) With regard to the pen pack, it
3 actually has a picture of Mr. Joos, does it not?

4 A Yes, sir.

5 Q Now, in connection with your duties as a special agent
6 with ATF, do you often attend court hearings involving
7 criminal defendants?

8 A Yes, I do.

9 Q And would that include Mr. Joos?

10 A Yes. Yes, sir.

11 Q Back in 2009 did you attend a court hearing where
12 Mr. Joos made an appearance in court?

13 A Yes, I did.

14 Q During that court appearance was Mr. Joos sworn in and
15 did he offer some testimony?

16 A Yes, he did.

17 Q During that course of testimony did he actually admit
18 that he was a convicted felon?

19 A Yes, he did.

20 Q Specifically, did he admit to being convicted of felonies
21 of driving without a license and unlawful use of a weapon?

22 A Yes, he did.

23 MR. KELLEHER: I have no further questions, Your
24 Honor.

25 THE COURT: All right. Cross-exam?

1 MR. JOHNSON: Yes, sir. Thank you, Judge.

2 CROSS-EXAMINATION

3 BY MR. JOHNSON:

4 Q Good afternoon, Agent Patterson.

5 Now, the first time you went out to the land, the
6 200 acres plus, was for the search warrant?

7 A That was the first time I was on the property.

8 Q You didn't go out there in any other capacity with Agent
9 Moreland?

10 A No, I never went with Agent Moreland out there.

11 Q So the information that you testified to as to this
12 building was the residence or where Robert or Bob lived, this
13 information was coming from Agent Moreland?

14 A It was coming from Agent Moreland, correct.

15 Q And I believe you testified that it was a dynamic
16 entrance that you all made, or dynamic search?

17 A Dynamic entry.

18 Q Dynamic entry, that included a helicopter?

19 A I don't know if they had a helicopter or not, sir.

20 Q Do you know how many agents were involved?

21 A I could only estimate.

22 Q Estimate around a hundred?

23 A That would be a fair assessment with the highway patrol.

24 Q And do you know they were out there for approximately
25 three days?

1 A Yes, sir.

2 Q Now, you were told by Agent Moreland, probably other
3 agents of law enforcement, what evidence that you all might
4 find out there; is that correct?

5 A Yeah, Agent Moreland related to others that he had seen
6 firearms inside the residence.

7 Q Okay. And, sir, the firearms that have been offered and
8 admitted into evidence that are leaning against this podium
9 and as well as the tolls, these are all the firearms that you
10 all located?

11 A Yes, sir.

12 Q Now, sir, all these weapons, they are legal to possess;
13 is that correct?

14 A Did you say illegal or legal?

15 Q Legal.

16 A As long as you're not a prohibited person, yes.

17 Q Correct. But there's no stolen weapons?

18 A No, sir.

19 Q There's no weapons that are sawed off below the legal
20 limit?

21 A No, sir.

22 Q And, quite frankly, looking at these weapons, they kind
23 of look archaic, old, wouldn't you agree?

24 A Yeah. The -- some of the shotguns and rifles are my age
25 or older.

1 Q Okay. As a matter of fact, every weapon -- the long guns
2 we'll call it -- these are all hunting weapons, shotguns, .22
3 rifles, .30-'06?

4 A For the most part I don't think that -- I wouldn't
5 classify the SKS as a hunting weapon. It's more a
6 military-style weapon.

7 Q Which one, sir?

8 A The SKS, if I could walk down.

9 Q Yes, please.

10 MR. JOHNSON: If that's okay, Judge?

11 THE COURT: Yes.

12 A This rifle right here.

13 Q (By Mr. Johnson) Is that a .22?

14 A No.

15 Q 7.62?

16 A That's just a -- typical of military-style weapon.
17 That's solely my opinion, sir.

18 Q And how old is that weapon?

19 A I don't know. I'm not an expert on the age of weapons.

20 Q Well, sir, did you -- during your inventory and
21 everything did you discover if any of these weapons were
22 stolen?

23 A No, none of the weapons that I was noted related that
24 they were stolen.

25 Q None of these weapons were involved in any other criminal

1 activity?

2 A Not to my knowledge.

3 Q And, sir, were you quite surprised that you didn't find
4 any M-16s or AK-47s, any automatic weapons?

5 A No, sir.

6 Q So agents -- around a hundred agents out there for
7 approximately three days and this is all that was found?

8 A Yes, sir.

9 Q And you talked about the residence. We talking about the
10 building --

11 MR. JOHNSON: If I may approach, Your Honor?

12 THE COURT: Yes.

13 Q (By Mr. Johnson) Showing you what's been marked and
14 offered into evidence as Government's Exhibit 38, I believe.
15 Is this the building that you went into?

16 A Yes, sir.

17 Q And this was the building that you were assigned to as
18 far as the search?

19 A Yes, sir.

20 Q And, sir, does that building have an upstairs?

21 A Yes, it does.

22 Q And did you, in fact, go upstairs?

23 A Yes, I did.

24 Q And as far as any other structures on this property, you
25 didn't go to?

1 A No, sir. I didn't go in -- this was -- there was a small
2 out building out here that I went into. It's like a storage
3 shed. But that was the only place that I went into.

4 Q You testified on more than one occasion that this was
5 called the residence?

6 A Yes, sir.

7 Q And this was told to you by other agents?

8 A Yes, sir.

9 Q And since your function out there was to search that
10 building, you didn't bother to check to see who owns that land
11 or the title on that deed, did you, or the name on the deed?

12 A I never checked that. That wasn't my duty.

13 Q Okay. And as far as the explosives, these fuses or
14 cannon wire, I believe you stated.

15 A Cannon fuse.

16 Q Cannon fuse. And you stated that it could be used for a
17 variety of sources?

18 A Right. It's commonly referred to as hobby fuse also.

19 Q You didn't find any pipe bombs?

20 A No, sir.

21 Q And you didn't find any bombs that you'd have ready to
22 explode; in other words, just light that fuse and it could go
23 off?

24 A No, sir, I didn't.

25 Q And, sir, when you appeared on the search, were you

1 present when Bob Joos was arrested?

2 A I was not at the house when he was arrested. I was at
3 the top of the lane.

4 Q When you say the house, you referring to that building?

5 A That building right there, yes, sir.

6 Q So you never had any communication with Bob prior or saw
7 him?

8 A I've never spoke with Mr. Joos in my entire life.

9 Q Okay.

10 MR. JOHNSON: No further questions, Judge.

11 THE COURT: All right. Any redirect?

12 MR. KELLEHER: Just briefly.

13 REDIRECT EXAMINATION

14 BY MR. KELLEHER:

15 Q You indicated that there were approximately a hundred law
16 enforcement officials who took part in this search, correct?

17 A Yes.

18 Q Or the execution of the search warrant.

19 Could you explain to the ladies and gentlemen of the
20 jury why it was necessary to involve this many people?

21 A Just given the simple terrain, the residence, set so far
22 back off the road. The SRT teams or the SWAT teams couldn't
23 just drive up to it and serve the search warrant. They would
24 be compromised. For ATF agents and highway patrol safety, as
25 well as Mr. Joos', the SRT teams had elected to go through the

1 woods on foot before they did that, which took a lot of time
2 and they had a lot of space to cover. And I can only offer an
3 opinion being a former SRT person as to why they utilized that
4 many people, if that's okay?

5 Q Please do.

6 A It's just there are so many outbuildings and structures
7 and vehicles and we could only, from aerial photographs and
8 stuff, ascertain whether or not there was 1, 10, 15 people.
9 The undercovers had only seen one person on the property;
10 however, they have to approach this as if every structure is
11 occupied. Therefore, that takes a lot of people and manpower
12 to do it safely. The ultimate goal of that operation is that
13 nobody gets hurt, whether it's the person you're going to
14 search, other team members, citizens. With that rugged
15 terrain, there was concern also of just simple things, of guys
16 twisting their ankles, getting bit by snakes, so on and so
17 forth, and I could go on and on.

18 Q It would be fair to say, however, that Special Agent
19 Moreland shared with the SWAT teams what Mr. Joos had told him
20 in terms of his mindset and things of that nature, correct?

21 A Yes.

22 Q Now, Mr. Johnson also talked about the age of the weapons
23 and for instance -- well, this shotgun looks pretty rusty,
24 right?

25 A Yes, sir.

1 Q If someone were to put a live round in this shotgun and
2 point it at someone and pull the trigger, would the age of the
3 weapon determine --

4 MR. JOHNSON: Your Honor, I'm going to object to the
5 form of the question. It calls for speculation. There's no
6 foundation as to --

7 THE COURT: He didn't quite get finished with the
8 question.

9 Q (By Mr. Kelleher) -- would that have any impact at all
10 on its lethality?

11 MR. JOHNSON: The objection's the same. Unless this
12 witness can testify that he did fire the weapons, to see if he
13 was able to fire them, it calls for speculation.

14 THE COURT: That's overruled. I think it was a
15 hypothetical question.

16 You can answer it. Did you answer it?

17 THE WITNESS: No.

18 THE COURT: You can answer it.

19 A I believe the firearms would -- would function as
20 designed.

21 Q (By Mr. Kelleher) They would be capable of killing
22 someone, correct?

23 A Yes.

24 Q Now, they also -- Mr. Johnson also talked about sawed-off
25 weapons. All of these are of legal length, correct?

1 A Correct.

2 Q I'm showing you Government's Exhibit 7. Is this the
3 original length of this particular gun?

4 A Upon examining the tip of the barrel, it appears it's
5 been altered, shortened.

6 Q Now, based on your training and experience as a ATF
7 agent, does sawing off a shotgun make it a better or worse
8 hunting weapon?

9 A Makes it a worse hunting weapon because the pattern will
10 spread. The longer -- typically on a shotgun, the longer the
11 barrel without going into the choke tubes, the tighter the
12 pattern, the shorter the barrel, the wider the pattern.

13 Q And, Agent Patterson, are you also a hunter?

14 A Yes, I am.

15 Q Hunting weapons are dual purpose, if you will, correct?
16 The weapon doesn't know whether it's hunting a deer or a
17 human, correct?

18 A That's correct.

19 Q So whether or not they're hunting weapons ultimately is
20 of no moment, is it not?

21 A Correct.

22 Q Now, with regard to this structure, during the execution
23 of this search warrant did you go room to room in conducting
24 your search?

25 A Yes, I did.

1 Q And you characterized it as a residence. Why do you
2 characterize that as a residence?

3 A There was a set of bunk beds in there. There's a
4 kitchen. It appeared to have some staples of food. There was
5 a bathroom. One of the bedrooms had a set of bunk beds in it.
6 There was what appeared to be men's clothing, men's shoes.

7 Q Was there any indication that more than one person lived
8 in that residence?

9 A Not to my knowledge.

10 Q Was all the clothing that you observed, did it appear to
11 be men's clothing?

12 A Yes, it appeared to be men's clothing.

13 Q Did all the clothing you observed tend to be consistent
14 with -- again, just based on your observations, consistent
15 with one size?

16 A I didn't look at the sizes. I just -- in a nutshell, the
17 shoes looked similar in size.

18 Q There was no evidence, there were no documents, there was
19 nothing else relating to a different person, was there, that
20 you located?

21 A Not that I located.

22 Q And this was -- this area was thoroughly searched, was it
23 not?

24 A Yes, sir.

25 Q Just to be clear, you took paperwork out, you went

1 through filing cabinets, things of that nature, correct?

2 A Yes, sir.

3 Q Did you find anything that appeared to belong to someone
4 other than Robert Joos?

5 A No.

6 MR. KELLEHER: Thank you.

7 THE COURT: Any more cross?

8 MR. JOHNSON: Yes, sir. Very quick, Your Honor.

9 RECROSS-EXAMINATION

10 BY MR. JOHNSON:

11 Q Agent Patterson, you said this sawed-off weapon appeared
12 to be altered?

13 A Yes, sir.

14 Q Now, as an ATF agent, is that a crime --

15 A No, it's not.

16 Q -- to alter a weapon?

17 A No, sir.

18 Q But you didn't see where this was altered or anything to
19 be illegal? You didn't consider this an illegal weapon?

20 A No, sir, no, I didn't. The barrel appeared to be
21 shortened.

22 Q I'm not sure if I asked this, sir, but did you check to
23 find out if any of these weapons were registered to Bob Joos?

24 A There is no registry unless it's a weapon that requires a
25 tax stamp.

1 Q If someone was to go buy a shotgun today say at Bass Pro
2 or Wal-Mart, do you have to put down your name, address and
3 have you ever been convicted of any felonies?

4 A Right, you have to fill out Form 4473. Those records are
5 retained when you trace the weapons; however, as a weapon gets
6 older, the span of where those weapons are obtained --

7 Q And Mr. Kelleher asked you questions about are you a
8 hunter, would a hunter typically hunt with a weapon sawed off
9 like this, and I believe you stated --

10 A No, I wouldn't.

11 Q Now, that area -- you went out there in the summertime?

12 A Yes, sir.

13 Q June of '09?

14 A Yes, sir.

15 Q And would you consider that a snake-infested area?

16 A Yes, I would.

17 Q As a matter of fact, there were two snake skins
18 hanging --

19 A I believe there was three, sir.

20 Q -- three hanging. Would you consider that an effective
21 weapon to kill snakes at short range?

22 A Absolutely.

23 MR. JOHNSON: I have no further questions, Judge.

24 THE COURT: May this witness be excuse?

25 MR. KELLEHER: Judge, I just have to -- if I may

1 have the Court's permission, just on the issue of registry.

2 THE COURT: All right.

3 CONTINUED REDIRECT EXAMINATION

4 BY MR. KELLEHER:

5 Q You talked a little bit about gun registrations and such.
6 You talked about a 4473. What exactly is that?

7 A It's a form that is -- you fill out when you purchase a
8 firearm from a licensed dealer. You're not registering it;
9 it's simply you're putting your information down and the gun
10 dealer is verifying your information and they conduct what's
11 called a NICS check, which means that he calls in your name
12 and date of birth and the FBI checks your criminal history to
13 insure that you're not a prohibited person. Once they give
14 the go-ahead, then the sale is completed. If a gun such as
15 law enforcement uses, a short-barreled shotgun or rifle,
16 there's a registry, the National Firearms Transfer Record.
17 That's the only registry there is. Certain firearms require a
18 tax stamp. Unless it's for a government entity, law
19 enforcement or military. So, therefore, there's no -- nobody
20 registers their firearms with ATF. The only registered
21 firearms are those prohibiting guns.

22 Q Let me just ask you a simple question. All these guns
23 here, is there a computer or a database you can type in the
24 serial number and find out who has that gun at any particular
25 time?

1 A No.

2 Q If I were to sell you -- if I as a private citizen were
3 to sell you this handgun -- and this is Government's
4 Exhibit 20 -- would there be any record of it at all?

5 A No, only unless you and I completed a bill of sale, but
6 that would be between us.

7 Q Right. If Robert Joos went into Bass Pro and wanted to
8 purchase this firearm and filled out a 4473 and gave them his
9 identifiers, would he be allowed to walk away with any of
10 these guns?

11 A If the system worked correctly and his criminal history
12 was run correctly, they would come back and say he's denied
13 based upon prohibiting convictions.

14 Q Now, and sometimes the system doesn't work correctly. Do
15 you go out and get the guns when the system doesn't work
16 correctly?

17 A Yes, we're notified.

18 Q So it would be fair to say based on your experience that
19 none of these guns could have been purchased by Mr. Joos using
20 his real name and identifiers after he had been convicted of
21 these felonies, correct?

22 A In theory, correct.

23 Q And, more importantly, any of these guns could have been
24 obtained virtually anywhere without having to go through any
25 checks, correct?

1 A Correct.

2 MR. KELLEHER: Thank you.

3 MR. JOHNSON: One real brief, Judge.

4 THE COURT: All right. This is the last question.

5 MR. JOHNSON: Promise.

6 CONTINUED RECROSS-EXAMINATION

7 BY MR. JOHNSON:

8 Q Agent Patterson, did you check the origin of any of these
9 weapons to find out who the original buyer was?

10 A These guns were traced but they weren't traced -- they
11 were traced by our system. That wasn't -- that wasn't a duty
12 of mine.

13 Q So no one went out there, said, "You purchased this.
14 What did you do with this weapon"?

15 A Correct.

16 Q No chain of evidence, so to speak, on that?

17 A No. From the original purchaser, no.

18 MR. JOHNSON: That's it, Judge.

19 THE COURT: All right. May this witness be excused?

20 MR. KELLEHER: Yes, Your Honor.

21 MR. JOHNSON: Yes, sir.

22 THE COURT: You're excused, sir. Thank you.

23 Call your next witness.

24 MR. KELLEHER: Government calls David Whittaker at
25 this time.

1 DAVID WHITTAKER, GOVERNMENT WITNESS, SWORN:

2 DIRECT EXAMINATION

3 BY MR. KELLEHER:

4 Q Would you please introduce yourself to the ladies and
5 gentlemen of the jury?

6 A My name is David Whittaker. I'm a special agent,
7 certified explosives specialist with the Bureau of Alcohol,
8 Tobacco, Firearms and Explosives. I'm assigned out of
9 St. Louis, Missouri. I've been an ATF agent for almost 20
10 years now.

11 Q Now, back on June 25th of 2009, did you take part in a --
12 the execution of a search warrant on a large piece of property
13 that we've I think now referred to as the Joos compound?

14 A Yes, sir, I did.

15 Q What was your duty with regard to that search?

16 A I was to assist with the search of the -- physical search
17 of the property.

18 Q Were you specifically tasked to search any particular
19 area?

20 A Yes, sir.

21 Q And where was that?

22 A I was assigned initially to search the vehicles on the
23 property and then also later the bunkhouse.

24 Q Okay. I'm going to show you what's been marked as
25 Government's Exhibit 48. And if you would, could you please

1 identify that photograph for me?

2 A Yes, sir.

3 Q What is that?

4 A This is a photograph of the front of the shed or
5 outbuilding that we referred to as the bunkhouse.

6 MR. KELLEHER: Your Honor, I move to admit
7 Government's Exhibit 48.

8 THE COURT: Any objection?

9 MR. JOHNSON: No objection, Your Honor.

10 THE COURT: Exhibit 48 is admitted.

11 Q (By Mr. Kelleher) And could you describe to the ladies
12 and gentlemen of the jury how you went about searching this
13 particular structure?

14 A It was -- myself and numerous other agents were searching
15 this outbuilding. This outbuilding, there's another area of
16 it that's hidden behind the trees on the right-hand side. The
17 foliage is kind of in the way. This building continues down
18 to the right a little bit. There's an entrance in here,
19 there's storage area here, then there's like a bunkhouse or
20 rooms, living rooms in the rear of it. But all the stuff on
21 the right is basically a storage area. It was just filled
22 from floor to ceiling with various storage items, books and
23 utility equipment and all kinds of stuff.

24 Q Were you able to locate any items of evidentiary value
25 from this structure?

1 A Yes, sir.

2 Q Could you explain to the ladies and gentlemen of the jury
3 what you found?

4 A While searching the far right storage area which is
5 slightly behind the shrubbery here, in the far back I had
6 located a quantity of safety fuse, orange safety fuse, also a
7 small box of nonelectric blasting caps.

8 Q Show you what's been marked as Government's Exhibit 49.
9 If you would, could you please identify that photograph for
10 me?

11 A Yes, sir. This is a photograph of the shelf or table
12 where I located the items I just described, the safety fuse
13 and the blasting caps.

14 MR. KELLEHER: I'd move to admit Government's
15 Exhibit 49.

16 MR. JOHNSON: No objection, Your Honor.

17 THE COURT: Exhibit 49 is admitted.

18 Q (By Mr. Kelleher) Now, probably should have got a
19 pointer for you, but the blasting -- the safety fuse, first
20 of all, that's depicted in this picture, is that in fact
21 Government's Exhibit 30?

22 A Yes, sir.

23 Q And that would be the item depicted in the almost dead
24 center of the photo, correct?

25 A That's correct.

1 Q Now, you also indicated that you recovered some blasting
2 caps, and could you tell us where those were located in that
3 photograph?

4 A In the fore picture there's a white bucket. Inside that
5 white bucket you'll see a small red cardboard box inside that
6 white bucket.

7 Q I'll show you Government's Exhibit 50. Could you
8 identify that photograph for me?

9 A Yes, sir. This is a photograph of the blasting cap
10 packaging box with the blasting caps inside of it.

11 MR. KELLEHER: Again, Your Honor, I'd move to admit
12 Government's Exhibit 50.

13 MR. JOHNSON: No objection, Your Honor.

14 THE COURT: Exhibit 50 is admitted.

15 Q (By Mr. Kelleher) Now, when you came across those, what
16 did you do with them?

17 A When I came across that box, knowing that there was a
18 chance of it being older explosives inside, I wasn't sure it
19 was -- obviously it said blasting caps on the box, but based
20 on my training I know that sometimes older blasting caps can
21 become unstable, so I very carefully opened it up and observed
22 that it did in fact have copper blasting caps in it, which are
23 extremely dangerous when deteriorated in the condition that
24 these are in.

25 Q When you say extremely dangerous, what could happen with

1 these particular types of blasting caps?

2 A When copper blasting caps -- it's almost like a penny.
3 When a penny corrodes, it gathers corrosion. Inside of these
4 blasting caps is another explosive material that when combined
5 with that copper it makes a very highly sensitive explosive
6 material, so much that it can go off with static or excessive
7 shock. Sometimes if they're corroded enough, just the mere
8 effect of opening a box or picking up the box could cause it
9 to detonate.

10 Q What kind of explosion would have resulted had this box
11 of blasting caps detonated?

12 A If that were to go off in my hand, it would probably
13 remove my hand and fragmentation from the metal from the
14 copper blasting caps would be into my body. It could have
15 caused serious injury or death.

16 Q Now, when you come across such things in the field as you
17 did at the Joos compound, what do you do with them?

18 A That has to be destroyed immediately.

19 Q And did you, in fact, destroy those blasting caps on
20 scene?

21 A Yes, sir, I did.

22 Q Could you describe to the ladies and gentlemen of the
23 jury the process by which those are destroyed?

24 A It's typical that if we come across copper blasting caps,
25 the most safe, effective way to dispose of them is to blow up

1 in place, counter-charge them with another explosive; however,
2 because these were in a building, we wanted to save the
3 integrity of the building, so I assumed the risk of moving
4 that box to a location outside of the building. I took these
5 a distance away from the building and put them into a hole
6 that I had dug and placed a counter-charge on top of that box
7 and detonated the counter-charge.

8 Q I'll show you Government's Exhibit No. 51. Could you
9 please identify that photograph?

10 A Yes, sir. This is the hole that I had dug and the box of
11 blasting caps in the hole.

12 MR. KELLEHER: And, Your Honor, I'd move to admit
13 Government's Exhibit 51.

14 MR. JOHNSON: No objection, Your Honor.

15 THE COURT: Fifty-one is admitted.

16 Q (By Mr. Kelleher) From there the blasting caps were
17 destroyed, correct?

18 A Yes, sir.

19 MR. KELLEHER: I think that covers it. Thank you.

20 THE COURT: Cross-exam?

21 MR. JOHNSON: Yes, sir. Thank you, Judge.

22 CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q Agent Whittaker, those blasting caps, were you able to
25 determine how old they were, what age?

1 A I know that they have not made copper blasting caps
2 probably since the mid '80s, so I knew they were probably at
3 least almost 20 years old.

4 Q Okay. And was there any age or -- not age, strike
5 that -- any dates or anything on the box that they were in?

6 A There was a code on the inside front cover as you could
7 see in the one previous photograph, but it was stained and --
8 but you could still make it out.

9 Q And, sir, when you -- you were briefed before you went
10 out there on the search, correct?

11 A Yes, sir.

12 Q And when you were briefed, what were you told about what
13 explosives you might be finding or coming across?

14 A We were told to look for just about anything, including
15 items that might have been used in a device, pipe bombs or any
16 other type of explosives or things to be used in an improvised
17 explosive device.

18 Q Your stated that your main duty assignment was to search
19 the vehicles that were out there?

20 A It started out with the vehicles and then I moved up the
21 hill to the bunkhouse and the vehicles up there.

22 Q And how long were you out there, sir, how many days?

23 A I believe I was out there a day and a half.

24 Q And I don't know if you counted all the vehicles out
25 there, but wouldn't it be fair to say it's close to a hundred?

1 A There were probably at least a hundred vehicles there.

2 Q You searched them all?

3 A Myself and a large number of other agents.

4 Q And these weren't empty vehicles, were they?

5 A Some of them were not empty.

6 Q They were packed -- some of them packed to the -- some
7 buses packed to the top, correct?

8 A Yes, sir.

9 Q And out of all of those -- we'll just use a hundred for
10 right now, all of those vehicles and buses that you and other
11 agents searched, you all didn't find any bombs or any
12 explosive devices in those vehicles?

13 A I did not find any and I'm not aware of any other agents
14 that found anything in the cars.

15 Q Now, as far as the blasting caps that were found, to
16 educate the jury, one wouldn't just use a blasting cap by
17 itself to blow something up, correct?

18 A The blasting -- in commercial explosives, as this is
19 designed for, a blasting cap is used to initiate a larger
20 charge. This is a primary explosive. It would lead into a
21 secondary charge in a commercial blasting industry.

22 Q And there were no bombs, pipe bombs or anything like that
23 that were found?

24 A I did not find any, sir.

25 MR. JOHNSON: Okay. Thank you.

1 No further questions, Judge.

2 REDIRECT EXAMINATION

3 BY MR. KELLEHER:

4 Q You indicated that these caps alone, however, had enough
5 explosive charge to blow your hand off, though, correct?

6 A That's correct.

7 MR. KELLEHER: Nothing further.

8 MR. JOHNSON: No, sir.

9 THE COURT: May this witness be excused?

10 MR. KELLEHER: Yes, sir.

11 MR. JOHNSON: Yes, Your Honor.

12 THE COURT: You're excused.

13 MR. KELLEHER: Government calls Fred Bradford.

14 FRED BRADFORD, GOVERNMENT WITNESS, SWORN:

15 DIRECT EXAMINATION

16 BY MR. KELLEHER:

17 Q Sir, would you please introduce yourself to the ladies
18 and gentlemen of the jury?

19 A My name is Fred Bradford. I'm an explosive enforcement
20 officer with the Bureau of Alcohol, Tobacco, Firearms and
21 Explosives.

22 Q And what do your duties entail?

23 A I'm a bomb tech. We're basically set up in the ATF much
24 like bomb squads would be for the police department or
25 sheriff's department. What we do that is a little different

1 is we do a lot of training and stuff overseas for the State
2 Department above and beyond normal bomb duties of the -- for
3 the bureau.

4 Q Now, in that regard do you have any specialized training?

5 A I do. I spent ten years in the Marine Corps as a
6 explosive ordinance disposal technician, came out and was a
7 bomb tech on bomb squad for six years, then hired in with ATF
8 in 1999.

9 Q And you've been dealing with explosives ever since, I
10 presume?

11 A Yes, sir.

12 Q I want to direct your attention specifically to June 25th
13 of 2009. Were you tasked to assist in the execution of a
14 search warrant of what is now known as the Joos compound?

15 A Yes, sir, I was.

16 Q What were your duties on that day?

17 A To assist if any explosive items or explosives were
18 recovered and help identify them.

19 Q And did you in fact assist in the recovery of a quantity
20 of Atlas blasting caps?

21 A I did, yes, sir.

22 Q I direct your attention to the screen which now shows a
23 photograph of Government's Exhibit 50. Are those in fact the
24 blasting caps that you helped recover?

25 A Yes, sir.

1 Q Now, are you familiar with the definition of an explosive
2 under federal law?

3 A Yes, sir.

4 Q Do blasting caps constitute an explosive under federal
5 law?

6 A Yes, sir, they do.

7 Q Can you explain why that is?

8 A Actually they fall under two different categories.
9 Blasting caps or detonators are actually mentioned but also in
10 that the explosives that are in the end of the cap are also
11 mentioned, which is RDX usually.

12 Q So under federal law these blasting caps depicted in
13 Government's Exhibit 50 would constitute an explosive,
14 correct?

15 A Yes, sir.

16 Q Consequently, a convicted felon would not be allowed to
17 possess them, correct?

18 A Yes, sir.

19 MR. KELLEHER: I have no further questions, Your
20 Honor.

21 THE COURT: Cross-exam?

22 CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q Agent Bradford, I'll lead off with what Mr. Kelleher
25 asked you. Would someone not convicted of a felony be allowed

1 to possess those?

2 A Yes, sir.

3 Q Sir?

4 A Yes, sir.

5 Q And as far as you stated that it would be an explosive
6 device, you would consider that?

7 A No, sir, I said an explosive.

8 Q I'm sorry. What about a destructive device?

9 A The caps in and of themselves, no, sir.

10 MR. JOHNSON: I have no further questions, Judge.

11 THE COURT: All right. Any redirect?

12 MR. KELLEHER: No, Your Honor.

13 THE COURT: May this witness be excused?

14 MR. KELLEHER: Yes, Your Honor.

15 MR. JOHNSON: Yes, sir.

16 THE COURT: You're excused, sir. Thank you.

17 MR. KELLEHER: Government calls Anthony Pupura.

18 THE COURT: Okay.

19 ANTHON PUPURA, GOVERNMENT WITNESS, SWORN:

20 DIRECT EXAMINATION

21 BY MR. KELLEHER:

22 Q Sir, would you please introduce yourself to the ladies
23 and gentlemen of the jury?

24 A Name's Anthony Pupura. I work at the Bureau of Alcohol,
25 Tobacco, Firearms and Explosives, United States Bomb Data

1 Center.

2 Q What exactly does the United States Bomb Data Center do?

3 A We collect information on explosive manufacturers,
4 bombing and arson information across the country, collect it
5 and put it into different databases.

6 Q Have you received any specialized training in that
7 regard?

8 A To collect information?

9 Q Yes.

10 A Yes. We -- over the past eight years we've had different
11 conferences that we go to, we talk to the explosive
12 manufacturers, we have liaisons that we talk to in the
13 explosives industry and the military and civilian law
14 enforcement.

15 Q Now, with regard to this particular case, United States
16 v. Robert Joos, were you asked to conduct a specific task?

17 A Yes, I was. I was asked to trace and make the nexus,
18 interstate nexus determination on the blasting caps.

19 Q I'll show you what's been marked as Government's
20 Exhibit 50 on the screen, and are those the blasting caps that
21 you were asked to conduct a nexus of?

22 A Yes, they are.

23 Q Just to be clear, what exactly does nexus mean at least
24 in regard to this type of case?

25 A The nexus is when a product is not made in the state that

1 the product was recovered in; for example, this particular
2 product was made in Pennsylvania and it was recovered here.

3 Q So obviously if it was made in Pennsylvania, it had to
4 cross the state line, correct?

5 A Correct.

6 Q That's essentially all you were asked to do; is that
7 correct?

8 A That's correct.

9 Q Just based on your expert experience, the blasting caps
10 depicted in Government's Exhibit 50 traveled across the state
11 line, correct?

12 A That's correct.

13 MR. KELLEHER: I don't believe I have any further
14 questions.

15 THE COURT: Cross-exam?

16 MR. JOHNSON: No, sir, Your Honor.

17 THE COURT: May this witness be excused?

18 MR. KELLEHER: Yes, Your Honor.

19 MR. JOHNSON: Yes, sir.

20 THE COURT: You're excused. Thank you.

21 MR. KELLEHER: Judge, may we approach?

22 THE COURT: Yeah.

23 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING
24 PROCEEDINGS WERE HAD:)

25 MR. KELLEHER: We're going to do the interstate

1 nexus of the guns and ammo. I need about five minutes to
2 reconfigure my evidence.

3 THE COURT: Take a short recess?

4 MR. KELLEHER: Yes, sir.

5 MR. JOHNSON: Go with the flow.

6 (PROCEEDINGS RETURNED TO OPEN COURT:)

7 THE COURT: Okay. All right. Ladies and gentlemen,
8 we're moving right along here but we need to take a little
9 break just to get a couple more witnesses lined up. Rather
10 than have you sit here, let's take a short break until 4:30.

11 (Court reads recess instruction to the jury.)

12 THE COURT: We'll be in recess until 4:30.

13 (Jury exits courtroom at 4:18 p.m.)

14 (Court stands in recess.)

15 THE COURT: Are we ready for the jury?

16 MR. KELLEHER: Yes, Your Honor.

17 THE COURT: You all ready?

18 MR. JOHNSON: Yes, sir.

19 THE COURT: Okay.

20 (Jury enters courtroom at 4:33 p.m.)

21 THE COURT: Please be seated, and call your next
22 witness.

23 MR. KELLEHER: Government at this time calls Dan
24 Fridley.

25 DAN FRIDLEY, GOVERNMENT WITNESS, SWORN:

1 DIRECT EXAMINATION

2 BY MR. KELLEHER:

3 Q Special Agent Fridley, would you please introduce
4 yourself to the ladies and gentlemen of the jury?

5 A My name is Dan Fridley. I'm a special agent with the
6 Bureau of Alcohol, Tobacco, Firearms and Explosives.

7 Q Now, with regard to this particular case, at least, do
8 you have an area of expertise?

9 A Yes.

10 Q And could you explain to the ladies and gentlemen of the
11 jury what you were called to do in this particular case?

12 A Yes. I am -- in the office I'm referred to as the
13 interstate nexus expert. One of the things that that entails
14 is doing the research on firearms and ammunition as it's
15 recovered by the other agents and determining its manufacturer
16 and its origin in order that I can testify ultimately that it
17 traveled in interstate commerce.

18 Q Now, for the most part you testify to firearms and
19 ammunition that were recovered in the state of Missouri. Does
20 that make your job somewhat easier?

21 A That's correct, yes, it does.

22 Q Why is that?

23 A Because there are few -- very, very few manufacturers of
24 ammunition and firearms in the state of Missouri.

25 Q Now, with regard to making these interstate nexus

1 determinations, determining where firearms and ammunition were
2 made, have you received any special training in that regard?

3 A I have. In addition to the 16 weeks of basic ATF
4 training, I received specialized training at our headquarters
5 in Washington D.C. in the early 1990s and in the early 2000s I
6 received additional advance training in interstate nexus and
7 actually visited and toured most of the major manufacturers of
8 firearms in the United States.

9 Q Have you on any number of occasions -- actually, quite a
10 few occasions -- testified in federal district court as an
11 expert in making these interstate nexus determinations?

12 A I have, yes.

13 Q In this particular case, United States v. Robert Joos,
14 were you called to examine some weapons and ammunition that
15 were recovered from those weapons?

16 A I was, yes.

17 Q And before the jury came back into the court just now,
18 did you have occasion to take a look at the firearms that are
19 arrayed before them?

20 A I did, yes.

21 Q And these firearms and ammunition, for record purposes,
22 are characterized as Government's Exhibits 1, 2, 3, 4, 5, 6,
23 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,
24 23, 24, 25, 26, 27. There is a variety of firearms and those
25 exhibits also encompass the ammunition that was recovered from

1 them. With regard to the firearms, out of 15 of the firearms
2 that were recovered from Mr. Joos' compound, did you examine
3 each one individually?

4 A I did, yes.

5 Q Were you able to determine that each and every one of
6 them was manufactured outside the state of Missouri?

7 A That's correct, they were all manufactured outside the
8 state of Missouri.

9 Q And in many cases, for instance, on Government's
10 Exhibit 20, a Ruger .22 caliber rifle, is in fact it stamped
11 with, among other things, Southport, Connecticut, USA?

12 A The place of manufacture, yes, is stamped right on the
13 gun.

14 Q Does that make your job somewhat easier?

15 A Yes, it does.

16 Q With regard to the ammunition recovered from those guns,
17 did you specifically go through and evaluate all of the
18 ammunition recovered from these specific firearms?

19 A I did.

20 Q And, again, did you make a determination that they were
21 manufactured outside the state of Missouri?

22 A All of the ammunition was manufactured outside the state
23 of Missouri.

24 Q And, again, necessarily that would indicate that the guns
25 and ammunition had to travel across the state line before

1 being recovered from the Joos compound, correct?

2 A That's correct.

3 Q Finally, Special Agent Fridley, did you test fire each
4 and every one of these firearms?

5 A I did, yes.

6 Q Does each and every one of these firearms work?

7 A They all function as designed, yes.

8 Q By that, they'll shoot?

9 A They will, yes.

10 Q Thank you.

11 MR. KELLEHER: I have no further questions.

12 THE COURT: All right. Any cross-exam?

13 MR. JOHNSON: Yes, sir. Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. JOHNSON:

16 Q Agent Fridley, when you stated that your job as an
17 expert, you trace it back to the -- I believe the origin, are
18 you talking about the origin of manufacture?

19 A The origin of where the gun was manufactured.

20 Q Not the origin of ownership?

21 A That's correct.

22 Q You don't do that at all?

23 A Not -- not particularly in these kind of cases, no.

24 Q Why so?

25 A Well, unless I'm asked to. But in this particular case I

1 was asked just to provide the -- where the gun was
2 manufactured.

3 Q Okay. Thank you.

4 MR. JOHNSON: No further questions, Judge.

5 THE COURT: All right.

6 Do you have a question?

7 MR. KELLEHER: Just a quick one.

8 REDIRECT EXAMINATION

9 BY MR. KELLEHER:

10 Q Who originally owned these guns is completely irrelevant,
11 is it not?

12 A Well, it is to me, counsel.

13 THE COURT: All right. May this witness be excused?

14 MR. KELLEHER: Yes, Your Honor.

15 MR. JOHNSON: Yes, sir.

16 THE COURT: You're excused. Thank you.

17 MR. KELLEHER: Your Honor, at this time the
18 government calls Lonnie Nance to the stand.

19 LONNIE NANCE, GOVERNMENT WITNESS, SWORN:

20 DIRECT EXAMINATION

21 BY MR. KELLEHER:

22 Q Would you please introduce yourself to the ladies and
23 gentlemen of the jury?

24 A Name is Lonnie Nance. I'm a Deputy U.S. Marshal with the
25 U.S. Marshal Service here in Springfield, Missouri.

1 Q Is your duty station actually here in the federal
2 courthouse?

3 A It is.

4 Q Among the duties that you have, is one of them
5 fingerprinting individuals who are arrested for federal
6 crimes?

7 A Yes, it is.

8 Q In connection with your duties, did you have occasion to
9 fingerprint Robert Joos?

10 A Yes.

11 Q And do you see Mr. Joos in court today?

12 A He's at the table sitting beside Mr. Johnson in the
13 orange jumpsuit.

14 MR. KELLEHER: Let the record reflect identification
15 of the defendant, please.

16 Q (By Mr. Kelleher) And, again, when you fingerprint an
17 individual, could you tell the ladies and gentlemen of the
18 jury just briefly how it's done?

19 A We start -- we have a full process, asking information
20 and stuff. When I fingerprinted Mr. Joos, it was because
21 fingerprints needed to be retaken. I retook them last week on
22 him. But we have a laserjet printer -- I mean an infrared
23 scan printer and you roll each print over that infrared line
24 and it picks up your fingerprint and scans it into the
25 computer.

1 Q I'll show you Government's Exhibit 36. Could you
2 identify this sheet of paper for me?

3 A Yes. It is the prints I took last week.

4 Q Prints of who?

5 A Mr. Joos.

6 Q And does it indicate -- in fact, does it bear his name
7 and your name to corroborate those facts?

8 A Yes. It prints my name as being the person who printed
9 the card and also I signed my name.

10 Q Okay.

11 MR. KELLEHER: Your Honor, move to admit
12 Government's Exhibit 36.

13 MR. JOHNSON: No objection, Your Honor.

14 THE COURT: All right. Government's Exhibit 36 is
15 admitted.

16 MR. KELLEHER: And I have no further questions of
17 this witness, Your Honor.

18 THE COURT: Do you have any questions?

19 MR. JOHNSON: No, sir, Your Honor.

20 THE COURT: All right. You can step down. Thank
21 you.

22 That it?

23 MR. KELLEHER: We're out of witnesses for today,
24 Your Honor.

25 THE COURT: All right. So, ladies and gentlemen, as

1 I said, sometimes we finish early, sometimes a little later,
2 today is early. So we're going to recess for the evening. I
3 would like for you to be back -- as I said, coffee -- the room
4 will be open and coffee be available as early as 8:00 or
5 shortly thereafter. I'd like for you to be sure and be here
6 no later than 8:45 so you can come into the courtroom at 9:00.
7 And with that again I'll say to you -- were you going to say
8 something?

9 MR. KELLEHER: Oh, no, sir.

10 THE COURT: Fooled me.

11 MR. KELLEHER: Jumping the gun yet again.

12 THE COURT: During this recess or any other recess,
13 don't discuss this case with anyone, including each other,
14 members of your family, people involved in the trial or anyone
15 else. If anyone tries to talk to you about the case, let me
16 know about that immediately. Don't read, watch, or listen to
17 any news reports of the trial. I know you've heard that there
18 may be some, but please don't watch that. You can see where
19 somebody else's description of what they saw here and if they
20 just saw bits and pieces wouldn't have any bearing in the
21 context of the whole thing, so you need to be for sure. Just
22 hang on another day here and keep your concentration on what
23 you've seen and heard here in the courtroom.

24 So don't read, watch or listen to any news reports
25 of the trial and remember to keep an open mind until all the

1 evidence has been received and you've heard the views of your
2 fellow jurors.

3 With that, we'll, as far as you're concerned, recess
4 for the evening, and we'll see you in the morning.

5 (Jury exits the courtroom at 4:42 p.m.)

6 THE COURT: All right. Please be seated.

7 Now, you've got two more witnesses. They don't look
8 like they'll be real long. What do you anticipate in the
9 morning?

10 MR. KELLEHER: 9:30, 10:00, if we start at 9:00.

11 THE COURT: All right.

12 Mr. Johnson, are you prepared to start in the
13 morning at that time?

14 MR. JOHNSON: Yes, sir, I am, Your Honor.

15 THE COURT: And can you give me an idea of how much
16 time you think that your case --

17 MR. JOHNSON: Judge, I can't tell you right now but
18 it shouldn't -- if you finish by about 10:00, is that what
19 you're saying?

20 THE COURT: Let's say ten.

21 MR. JOHNSON: We should be finished by noon.

22 THE COURT: Then we need to talk about instructions.
23 Are you prepared to talk about instructions tonight?

24 MR. JOHNSON: Well, no, sir, because I need to talk
25 to Mr. Joos about them. He indicated he has some he'd like

1 to -- what I plan to do as soon as we wrap up here is go
2 downstairs and talk to him.

3 THE COURT: Mr. Joos, do your instructions deal
4 primarily with the elements of the crimes, what we call the
5 verdict director instruction?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Are you prepared to talk with
8 your counsel tonight, then?

9 THE DEFENDANT: Yes, sir. I have my list right
10 here.

11 THE COURT: All right. Well, let's do this, talk
12 with Mr. Joos and get his ideas and then we won't make a
13 record on it in the morning but I would like to talk to the
14 attorneys about 8:30 in the morning just to get a feel for the
15 draft instructions and where we need to go if there are any
16 changes.

17 MR. JOHNSON: Yes, sir.

18 THE COURT: Then we can -- we can go from there, but
19 let's try to be prepared to discuss that in the morning.

20 If you'll have somebody here from the government
21 that can make changes if we need to while we're in court, can
22 you do that?

23 MR. KELLEHER: I can. It might be wise since the
24 jury instructions that I have submitted at least are the
25 official ones, if you will, the ones directly from the Eighth

1 Circuit, and if we get those squared away, I think it would be
2 easier if we're just talking about the addition of perhaps
3 maybe extra instructions.

4 THE COURT: Well, I don't know if we're talking
5 about additional instructions or maybe a disagreement with the
6 government's instruction. We'll find out at 8:30 in the
7 morning.

8 MR. KELLEHER: Okay.

9 THE COURT: Now, the other thing is whether or not
10 Mr. Joos is going to testify and I need to talk with him about
11 that beforehand. Is that something we can do at a break after
12 the government's case in the morning?

13 MR. JOHNSON: Yes, sir.

14 THE COURT: Talk to Mr. Joos about that so we're
15 ready to deal with that, because if you're done at noon, then
16 I do believe we'll try to submit this tomorrow afternoon to
17 the jury.

18 MR. KELLEHER: Judge, if I may. I didn't receive a
19 witness list. Was there a witness list filed by the defense?

20 MR. JOHNSON: (Shakes head.)

21 MR. KELLEHER: Okay. So I assume that --

22 MR. JOHNSON: Just don't assume anything, Jim.

23 THE COURT: Well, I know what you're saying because
24 there was no witness list but we'll just deal with it as it
25 comes up.

1 MR. KELLEHER: I just --

2 MR. JOHNSON: Your Honor, I have one other thing.
3 Mr. Joos stated that he would like to wear civilian clothes
4 tomorrow and Mr. Nance has already stated that he could get
5 that squared away with St. Clair County.

6 THE COURT: Okay. We'll do that. They may not have
7 the fringe on it like you're talking about. You okay with
8 that?

9 THE DEFENDANT: No, sir, we're talking my clothes.

10 THE MARSHAL: I set it up for his clothes to come
11 from St. Clair County.

12 THE COURT: So they were the acceptable clothes?

13 THE DEFENDANT: The deputies told me they weren't
14 told to bring them.

15 THE COURT: Okay. Anything else?

16 MR. KELLEHER: No, sir.

17 MR. JOHNSON: No, sir.

18 THE COURT: All right. Thank you.

19 (Court stands in recess at 4:46 p.m.)

20 END OF VOLUME 1

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